

MONTANA LEGISLATIVE HISTORY

Chapter 419 19 2011

Bill H _____ SB 423 Original bill & history ✓ C

H. Committee on Human Services

Hearing Date(s) 4-6 out C

House Approp. 4-8 out C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3-25 8am C

3-25 3pm out

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

Free Conference Committee

4-18

4-19

4-20

Governor's Amendments

4-28

Free Conference Committee

4-28

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

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Detailed Bill Information



| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Bill Draft Number: LC2204 **Current Bill Text:** [HTML](#) [PDF](#) **Previous Version(s)**

Bill Type - Number: SB 423 [Fiscal Note](#)

Short Title: Generally revise laws relating to use of marijuana

Primary Sponsor: Jeff Essmann

Chapter Number: 419 [PDF](#)

[All Available Audio for this Bill](#)

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 110

[Print Friendly](#)

Action - Most Recent First	Date	Votes Yes	Votes No	Committee <i>(What's New?)</i>
Chapter Number Assigned	05/13/2011			
(S) Transmitted to Governor	05/03/2011			
(H) Signed by Speaker	05/03/2011			
(S) Signed by President	05/03/2011			
(S) Returned from Enrolling	05/02/2011			
(C) Printed - Enrolled Version Available	05/02/2011			
(C) Printed - New Version Available	04/29/2011			
(S) Sent to Enrolling	04/29/2011			
(S) 3rd Reading Free Conference Committee Report Adopted	04/28/2011	<u>35</u>	<u>15</u>	
(S) 2nd Reading Free Conference Committee Report Adopted	04/28/2011	<u>33</u>	<u>16</u>	
(H) 3rd Reading Free Conference Committee Report Adopted	04/28/2011	<u>78</u>	<u>17</u>	
(H) 2nd Reading Free Conference Committee Report Adopted	04/28/2011	<u>88</u>	<u>12</u>	
(S) Free Conference Committee Report Received	04/28/2011			

(H) Free Conference Committee Report Received	04/28/2011			
(H) Free Conference Committee Appointed	04/28/2011			
(S) Free Conference Committee Appointed	04/28/2011			
(H) 2nd Reading Governor's Proposed Amendments Adopted	04/28/2011	<u>90</u>	<u>9</u>	
(S) 2nd Reading Governor's Proposed Amendments Not Adopted	04/28/2011	<u>30</u>	<u>20</u>	
(S) Scheduled for 2nd Reading	04/28/2011			
(S) Returned with Governor's Proposed Amendments	04/28/2011			
(S) Transmitted to Governor	04/28/2011			
(S) Signed by President	04/28/2011			
(S) Scheduled for 2nd Reading	04/28/2011			
(H) Scheduled for 2nd Reading	04/28/2011			
(H) Scheduled for 2nd Reading	04/28/2011			
(S) Scheduled for 2nd Reading	04/28/2011			
(S) Returned from Enrolling	04/27/2011			
(C) Printed - Enrolled Version Available 	04/27/2011			
(C) Printed - New Version Available 	04/27/2011			
(S) Sent to Enrolling	04/27/2011			
(S) 3rd Reading Free Conference Committee Report Adopted	04/27/2011	<u>33</u>	<u>17</u>	
(H) 3rd Reading Free Conference Committee Report Adopted	04/27/2011	<u>70</u>	<u>30</u>	
(H) Scheduled for 3rd Reading	04/27/2011			
(S) Scheduled for 3rd Reading	04/27/2011			
(H) 2nd Reading Free Conference Committee Report Adopted	04/26/2011	<u>72</u>	<u>28</u>	<u>Audio</u>
(S) 2nd Reading Free Conference Committee Report Adopted	04/26/2011	<u>34</u>	<u>16</u>	<u>Audio</u>
(H) Scheduled for 2nd Reading	04/26/2011			
(S) Scheduled for 2nd Reading	04/26/2011			
(S) Free Conference Committee Report Received	04/20/2011			
(H) Free Conference Committee Report Received	04/20/2011			
(S) Hearing	04/20/2011			(S) Free Conference (<u>Audio</u>)
(S) Hearing	04/19/2011			(S) Free

				Conference (Audio)
(S) Hearing	04/18/2011			(S) Free Conference (Audio)
(S) Hearing	04/18/2011			(S) Free Conference (Audio)
(H) Free Conference Committee Appointed	04/13/2011			
(S) Free Conference Committee Appointed	04/13/2011			
(S) 2nd Reading House Amendments Not Concurred	04/13/2011	<u>49</u>	<u>1</u>	Audio
(S) Scheduled for 2nd Reading	04/13/2011			
(H) Returned to Senate with Amendments	04/12/2011			
(H) 3rd Reading Concurred	04/12/2011	<u>77</u>	<u>22</u>	
(H) Scheduled for 3rd Reading	04/12/2011			
(C) Printed - New Version Available 	04/11/2011			
(H) 2nd Reading Concurred as Amended	04/11/2011	<u>77</u>	<u>23</u>	Audio
(H) 2nd Reading Motion to Amend Failed	04/11/2011	<u>33</u>	<u>67</u>	
(H) 2nd Reading Motion to Amend Carried	04/11/2011	<u>96</u>	<u>4</u>	
(H) Scheduled for 2nd Reading	04/11/2011			
(H) Committee Report--Bill Concurred	04/08/2011			(H) Appropriations
(H) Committee Executive Action--Bill Concurred	04/08/2011	<u>21</u>	<u>0</u>	(H) Appropriations
(H) Hearing	04/08/2011			(H) Appropriations (Audio)
(H) Rereferred to Committee	04/07/2011			(H) Appropriations
(C) Printed - New Version Available 	04/07/2011			
(H) Committee Report--Bill Concurred as Amended	04/07/2011			(H) Human Services
(H) Committee Executive Action--Bill Concurred as Amended	04/06/2011	<u>12</u>	<u>3</u>	(H) Human Services
(H) Hearing	04/06/2011			(H) Human Services (Audio)
(H) Referred to Committee	04/01/2011			(H) Human Services
(H) First Reading	04/01/2011			
(H) Rules Suspended to Accept Late Transmittal of Bill	04/01/2011	<u>100</u>	<u>0</u>	
(S) Transmitted to House	03/31/2011			
(S) 3rd Reading Passed	03/31/2011	<u>36</u>	<u>14</u>	
(S) Scheduled for 3rd Reading	03/31/2011			
(S) Missed Deadline for Revenue Bill Transmittal	03/30/2011			

(S) Motion Failed	03/30/2011	<u>32</u>	<u>18</u>	
(S) Motion Carried	03/30/2011	<u>28</u>	<u>22</u>	
(S) Motion Failed	03/30/2011	<u>31</u>	<u>19</u>	
(C) Printed - New Version Available 	03/30/2011			
(S) 2nd Reading Passed as Amended	03/30/2011	<u>37</u>	<u>13</u>	Audio
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>38</u>	<u>12</u>	
(S) Reconsidered Previous Action; Remains in 2nd Reading Process	03/30/2011	<u>47</u>	<u>3</u>	
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>36</u>	<u>14</u>	
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>28</u>	<u>22</u>	
(S) Fiscal Note Printed	03/30/2011			
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>27</u>	<u>23</u>	
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>47</u>	<u>2</u>	
(S) 2nd Reading Motion to Amend Failed	03/30/2011	<u>22</u>	<u>27</u>	
(S) 2nd Reading Motion to Amend Failed	03/30/2011	<u>22</u>	<u>27</u>	
(S) 2nd Reading Motion to Amend Carried	03/30/2011	<u>50</u>	<u>0</u>	
(S) Fiscal Note Printed	03/30/2011			
(S) Fiscal Note Received	03/30/2011			
(S) Scheduled for 2nd Reading	03/30/2011			
(S) 2nd Reading Passed Consideration	03/29/2011			
(S) Scheduled for 2nd Reading	03/29/2011			
(C) Printed - New Version Available 	03/26/2011			
(S) Committee Report--Bill Passed as Amended	03/26/2011			(S) Judiciary
(S) Committee Executive Action--Bill Passed as Amended	03/25/2011	<u>10</u>	<u>2</u>	(S) Judiciary
(S) Hearing	03/25/2011			(S) Judiciary (Audio)
(S) Referred to Committee	03/23/2011			(S) Judiciary
(S) First Reading	03/23/2011			
(C) Introduced Bill Text Available Electronically 	03/23/2011			
(S) Fiscal Note Requested	03/23/2011			
(S) Introduced	03/23/2011			
(C) Draft Delivered to Requester	03/23/2011			
(C) Fiscal Note Probable	03/23/2011			
(C) Draft Ready for Delivery	03/23/2011			
(C) Draft in Assembly/Executive Director Review	03/23/2011			
(C) Draft in Final Drafter Review	03/23/2011			

(C) Draft in Input/Proofing	03/23/2011			
(C) Bill Draft Text Available Electronically	03/23/2011			
(C) Draft in Legal Review	03/22/2011			
(C) Draft to Requester for Review	03/22/2011			
(C) Draft Request Received	03/18/2011			

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	(S) Judiciary Standing Committee		
Drafter	O'Connell	Sue	
By Request Of	(S) Judiciary Standing Committee		
Primary Sponsor	Essmann	Jeff	

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Alcohol and Drugs		Simple	ALC
Crimes		Simple	CR
Rule Making		Simple	RUL
Professions and Occupations O-Z		Simple	PROO
Revenue, State	Revenue	Simple	REVS
Health Care Services (see also: Health)		Simple	HLTC

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N
Session Law Ch. Number: 419
DEADLINE

Category: Revenue Bills**Transmittal Date:** 03/30/2011**Return (with 2nd house amendments) Date:** 04/13/2011

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
Sections 20, 30, 31, 33, 35, 38, and 40	13-MAY-11	
Section 1-19, 21-29, 32, 36, 37, and 39	01-JUL-11	
Section 34	01-JUL-11	The repeal of all sections other than 50-46-103, as provided in section 34
Section 34	13-MAY-11	The repeal of 50-46-103 as provided in section 34

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

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1 SENATE BILL NO. 423

2 INTRODUCED BY J. ESSMANN

3 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

4

5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
7 AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING FOR
8 THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR
9 THERAPEUTIC USE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A
10 SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS
11 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127,
12 45-10-103, 45-10-107, 61-11-101, 69-1-114, AND 69-1-401, MCA; AND PROVIDING EFFECTIVE DATES."

13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15

16 **NEW SECTION. Section 1. Short title -- purpose.** (1) [Sections 1 through 40] may be cited as the
17 "Montana Therapeutic Marijuana Act".

18 (2) The purpose of [sections 1 through 40] is to:

19 (a) provide legal protections to individuals with debilitating medical conditions who engage in the
20 therapeutic use of marijuana as provided in [sections 1 through 40] to alleviate the symptoms of their debilitating
21 medical conditions;

22 (b) allow for the possession, cultivation, manufacture, delivery, and transportation of marijuana as
23 permitted by [sections 1 through 40]; and

24 (c) create a framework for therapeutic use of marijuana that protects the health, welfare, and safety of
25 both the persons engaging in the therapeutic use of marijuana and the general public by:

26 (i) allowing individuals who provide the required application materials to obtain registry identification
27 cards;

28 (ii) allowing individuals to assist, without compensation, up to four registered cardholders with the
29 cultivation and manufacture of therapeutic marijuana;

30 (iii) providing for licensure of individuals, businesses, and organizations that are involved in the cultivation,

1 manufacture, delivery, transportation, and transfer of therapeutic marijuana or related products;
2 (iv) allowing certain licensees to be reimbursed for their costs; and
3 (v) establishing reporting requirements for production of therapeutic marijuana and sales and inspection
4 requirements for licensed premises.
5

6 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 40], unless the context clearly
7 requires otherwise, the following definitions apply:

8 (1) "Courier" means an individual or business that is licensed to transport and deliver therapeutic
9 marijuana or therapeutic marijuana-infused products from a licensed premises to a registered cardholder.

10 (2) "Debilitating medical condition" means:

11 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency
12 syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's
13 health status;

14 (b) cachexia or wasting syndrome;

15 (c) severe chronic pain that is documented by:

16 (i) the patient's primary care physician and by a specialist with expertise in the disease process that is
17 causing the pain; and

18 (ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to
19 the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

20 (d) intractable nausea or vomiting;

21 (e) epilepsy or an intractable seizure disorder;

22 (f) multiple sclerosis;

23 (g) Crohn's disease;

24 (h) painful peripheral neuropathy;

25 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

26 (j) admittance into hospice care in accordance with rules adopted by the department; or

27 (k) any other medical condition or treatment for a medical condition approved by the legislature after
28 reviewing recommendations of the advisory board provided for in [section 3].

29 (3) "Department" means the department of public health and human services.

30 (4) "Licensed premises" means the premises at which a therapeutic marijuana grower, a therapeutic

1 marijuana-infused products manufacturer, or a registrant of a grower or manufacturer is authorized to cultivate,
2 manufacture, or provide therapeutic marijuana or therapeutic marijuana-infused products.

3 (5) "Licensee" means a courier, personal production assistant, therapeutic marijuana grower, or
4 therapeutic marijuana-infused products manufacturer that has received a license pursuant to [sections 17 through
5 40].

6 (6) "Limited access area" means a building, room, or other contiguous area on a licensed premises to
7 which only persons licensed or registered by the state licensing authority pursuant to [sections 17 through 40]
8 may have access.

9 (7) "Local government" means a county, a consolidated government, or an incorporated city or town.

10 (8) "Marijuana" has the meaning provided in 50-32-101.

11 (9) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

12 (10) "Paraphernalia" has the meaning provided in 45-10-101.

13 (11) (a) "Personal production assistant" means an individual 18 years of age or older who is licensed
14 pursuant to [sections 17 through 40] and who has agreed to assist a registered cardholder as allowed under
15 [section 23].

16 (b) The term does not include the cardholder's primary care or referral physician.

17 (12) "Primary care physician" means a person who:

18 (a) is licensed under Title 37, chapter 3;

19 (b) has an established office in Montana; and

20 (c) has a bona fide professional relationship with the patient that has existed for at least 6 months and
21 has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed.

22 (13) "Qualifying patient" means a person who has been diagnosed by a physician or physicians as having
23 a debilitating medical condition.

24 (14) "Referral physician" means a person who:

25 (a) is licensed under Title 37, chapter 3;

26 (b) has an established office in Montana; and

27 (c) is the person to whom a patient's primary care physician has referred the patient for physical
28 examination and medical assessment.

29 (15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
30 condition who has received and maintains a valid registry identification card.

(16) "Registrant" means an individual who is registered by the state licensing authority for the purposes of working for a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

(17) "Registry identification card" means a document issued by the department pursuant to [section 4] that identifies an individual as a registered cardholder.

(18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 40] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

(20) "Standard of care" means:

(a) the following activities when undertaken by a patient's primary care physician if the primary care physician is providing written certification for a patient with a debilitating medical condition:

(i) obtaining the patient's medical history;

(ii) performing a relevant physical examination;

(iii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

(v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(vi) monitoring the response to treatment and possible adverse effects; and

(vii) creating and maintaining patient records that remain with the physician; or

(b) the following activities undertaken by a referral physician when the referral physician is providing written certification:

(i) obtaining the patient's medical history;

(ii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iii) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

and

(iv) creating and maintaining patient records that remain with the physician.

(21) "State licensing authority" means the public service commission provided for in 2-15-2602.

(22) "Therapeutic marijuana" means marijuana that is cultivated, manufactured, transferred, or used for

1 therapeutic use.

2 (23) "Therapeutic marijuana grower" means an organization that meets the requirements of [section 20]
3 and is licensed pursuant to [sections 17 through 40] to cultivate marijuana at a licensed premises.

4 (24) (a) "Therapeutic marijuana-infused product" means a product that contains therapeutic marijuana
5 and is intended for therapeutic use by means other than smoking.

6 (b) The term includes but is not limited to edible products, ointments, and tinctures.

7 (25) "Therapeutic marijuana-infused products manufacturer" means an organization that meets the
8 requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to manufacture therapeutic
9 marijuana-infused products.

10 (26) "Therapeutic use" means:

11 (a) for a registered cardholder, the possession, cultivation, manufacture, transportation, or use of
12 marijuana or paraphernalia by a registered cardholder to alleviate the symptoms or effects of the cardholder's
13 debilitating medical condition; and

14 (b) for a licensee, the cultivation, manufacture, transportation, or storage of therapeutic marijuana or the
15 possession and use of paraphernalia for the manufacture of therapeutic marijuana:

16 (i) as allowed by the applicable license; and

17 (ii) solely for use by a registered cardholder.

18 (27) "Written certification" means a statement signed by a physician stating that:

19 (a) the physician has completed a full assessment of the qualifying patient's medical history and current
20 medical condition;

21 (b) the assessment meets the standard of care;

22 (c) the qualifying patient has a debilitating medical condition; and

23 (d) the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the
24 qualifying patient.

25
26 **NEW SECTION. Section 3. Advisory board -- membership -- duties.** (1) There is an advisory board
27 consisting of eight medical practitioners representing the fields of neurology, pain management, medical
28 oncology, psychiatry, infectious disease, family medicine, and gynecology.

29 (2) (a) Each advisory board member must be nationally board-certified in the member's area of specialty
30 and knowledgeable about the therapeutic use of marijuana.

1 (b) The governor shall appoint the members from a list of practitioners proposed by Montana
2 organizations representing physicians and health care facilities.

3 (3) The board shall meet two times a year to:

4 (a) review debilitating medical conditions previously approved by the legislature to determine whether
5 to recommend changes to the eligibility criteria for individuals applying under those conditions or to review new
6 scientific evidence pertaining to currently approved conditions, including information on the amount of therapeutic
7 marijuana allowed for approved conditions or the form in which the marijuana should be used;

8 (b) review and, if necessary, recommend increases or decreases to the quantity of marijuana that
9 therapeutic marijuana growers and registered cardholders may cultivate or manufacture in order to provide an
10 adequate supply for registered cardholders;

11 (c) recommend the manner of consumption or application of marijuana-infused products that may be most
12 appropriate for a particular debilitating medical condition; and

13 (d) review and recommend to the law and justice interim committee provided for in 5-5-226 additional
14 debilitating medical conditions for which the benefits of the use of therapeutic marijuana would likely outweigh
15 the risks, based on petitions submitted to the department for the addition of new debilitating medical conditions.

16 (4) Members of the board are entitled to be paid in an amount to be determined by the department, not
17 to exceed \$50 for each day in which a member is actually and necessarily engaged in the performance of board
18 duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while
19 performing board duties. The board's operational costs must be paid through fees, fines, and penalties paid
20 pursuant to [sections 1 through 16].

21
22 **NEW SECTION. Section 4. Registry identification cards -- minors -- exceptions -- report to**
23 **legislature.** (1) The department shall establish and maintain a program for the issuance of registry identification
24 cards to Montana residents who meet the requirements of [sections 1 through 40].

25 (2) Except as provided in subsections (4) and (5), the department shall issue a registry identification card
26 to a qualifying patient who submits the following, in accordance with department rules:

27 (a) written certification that the person is a qualifying patient;

28 (b) for a qualifying patient whose medical condition is severe chronic pain, objective proof of the etiology
29 of the pain established by the results of diagnostic tests, including but not limited to x-rays, a computerized
30 tomography scan, or magnetic resonance imaging;

1 (c) an application fee or renewal fee;

2 (d) the name, address, and date of birth of the qualifying patient;

3 (e) proof of Montana residency;

4 (f) the name, street address, and telephone number of the qualifying patient's primary care physician
5 and referral physician, if any;

6 (g) a statement on a form prescribed by the department pledging not to divert marijuana to anyone who
7 is not allowed to possess marijuana pursuant to [sections 1 through 40];

8 (h) a statement indicating that the qualifying patient intends to:

9 (i) cultivate the qualifying patient's therapeutic marijuana; or

10 (ii) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused
11 products manufacturer;

12 (i) (i) the name, street address, and date of birth of the individual's personal production assistant, if any;
13 or

14 (ii) an application for approval to acquire therapeutic marijuana from a therapeutic marijuana grower or
15 therapeutic-marijuana infused products manufacturer.

16 (3) A registered cardholder may have only one personal production assistant if the cardholder chooses
17 to cultivate and manufacture therapeutic marijuana rather than obtain the marijuana from a therapeutic marijuana
18 grower or a therapeutic marijuana-infused products manufacturer.

19 (4) The department shall issue a registry identification card to a minor if the minor's custodial parent or
20 legal guardian with responsibility for health care decisions:

21 (a) submits the materials required under subsection (2);

22 (b) provides proof of legal guardianship and responsibility for health care decisions if the person is
23 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

24 (c) signs and submits a written statement that:

25 (i) two physicians have explained to the minor and to the minor's custodial parent or legal guardian with
26 responsibility for health care decisions the potential risks and benefits of the therapeutic use of marijuana; and

27 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

28 (A) consents to the therapeutic use of marijuana by the minor;

29 (B) agrees to serve as the minor's personal production assistant;

30 (C) agrees to control the acquisition of marijuana and the dosage and frequency of the therapeutic use

1 of marijuana by the minor;

2 (D) submits fingerprints to facilitate a finger print and background check by the department of justice and
3 the federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and
4 may not be licensed if the parent or legal guardian does not meet the requirements of [sections 1 through 40].

5 (E) pledges, on a form prescribed by the department, not to divert marijuana to anyone who is not allowed
6 to possess marijuana pursuant to [sections 1 through 40].

7 (5) The application for a minor must include written certification and the statements required under
8 [section 5] from:

9 (a) the primary care physician who is recommending marijuana for therapeutic use; and

10 (b) a second physician who has conducted a comprehensive review of the minor's medical record as
11 maintained by the minor's primary care physician and who is recommending marijuana for therapeutic use by the
12 minor.

13 (6) An individual may not be a registered cardholder if the individual is under the supervision of the
14 department of corrections or a youth court.

15 (7) (a) The department shall verify the information contained in an application or renewal submitted
16 pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the
17 application or renewal.

18 (b) The department may deny an application or renewal only:

19 (i) if the applicant did not provide the information required pursuant to this section;

20 (ii) if the department determines that the information was falsified;

21 (iii) if the applicant is not qualified to receive a registry identification card under the provisions of [sections
22 1 through 40]; or

23 (iv) for other reasons specified by the department by rule.

24 (c) Rejection of an application or renewal is considered a final department action, subject to judicial
25 review.

26 (8) The department shall issue a registry identification card with a unique identification number within
27 15 days of approving an application or renewal. Registry identification cards expire 1 year after the date of
28 issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of
29 time. A registry identification card must state:

30 (a) the name, street address, and date of birth of the registered cardholder;

1 (b) the name and street address of the primary care physician or referral physician, if any, who provided
2 the written certification for the cardholder;

3 (c) the date of issuance and expiration date of the registry identification card; and

4 (d) other information that the department may specify by rule.

5 (9) The department shall provide the state licensing authority with the name of each registered
6 cardholder who indicates on the application that the cardholder intends to:

7 (a) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused
8 products manufacturer; or

9 (b) use a personal production assistant.

10 (10) (a) A registered cardholder shall notify the department within 10 days of any change in the:

11 (i) cardholder's street address, physician, or personal production assistant;

12 (ii) status of the cardholder's debilitating medical condition.

13 (b) If a change occurs and is not reported to the department, the registry identification card is void.

14 (11) The department shall report biannually to the legislature the number of applications for registry
15 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
16 conditions of the cardholders, the number of registry identification cards revoked, the number of physicians
17 providing written certification for registered cardholders, and the number of written certifications each physician
18 has provided. The department may not provide any identifying information of cardholders or physicians.

19
20 **NEW SECTION. Section 5. Written certification -- accompanying statements -- required**
21 **notification to board of medical examiners.** (1) The written certification provided by a physician must be made
22 on a form prescribed by the department and signed and dated by the physician. The form must include:

23 (a) the physician's name, license number, office address, and telephone number on file with the board
24 of medical examiners and the physician's e-mail address; and

25 (b) the qualifying patient's name, date of birth, and debilitating medical condition.

26 (2) A physician who is providing written certification for a qualifying patient 18 years of age or older or
27 who is the primary care provider for a minor applying for a registry identification card shall provide:

28 (a) a statement initialed by the physician that the physician:

29 (i) has a professional relationship with the qualifying patient that has existed for at least 6 months and
30 has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed;

1 (ii) has assumed primary responsibility for providing management and routine care of the qualifying
2 patient's debilitating medical condition after conducting a comprehensive medical history and physical
3 examination that included a personal review of any medical records maintained by other treating physicians and
4 that may have included the qualifying patient's reaction and response to conventional medical therapies;

5 (iii) has reviewed all prescription and nonprescription medications and supplements used by the qualifying
6 patient and has considered the potential drug interaction with marijuana;

7 (iv) has explained the potential risks and benefits of the therapeutic use of marijuana to the qualifying
8 patient; and

9 (v) plans to continue to assess the patient and the patient's therapeutic use of marijuana during the
10 course of the physician-patient relationship;

11 (b) a statement that in the physician's professional opinion the potential benefits of the therapeutic use
12 of marijuana would likely outweigh the health risks for the qualifying patient; and

13 (c) an attestation that the information provided in the written certification and accompanying statements
14 is true and correct.

15 (3) A physician who is the second physician recommending marijuana for therapeutic use by a minor or
16 the second physician providing a written certification for a qualifying patient whose debilitating medical condition
17 includes severe chronic pain shall submit:

18 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
19 minor's medical records as maintained by the primary care physician or documented the qualifying patient's
20 severe chronic pain as required pursuant to [sections 1 through 40];

21 (b) a statement that in the physician's professional opinion, the potential benefits of the therapeutic use
22 of marijuana would likely outweigh the health risks for the minor or qualifying patient; and

23 (c) an attestation that the information provided in the written certification and accompanying statements
24 is true and correct.

25 (4) The department shall provide the board of medical examiners provided for in 2-15-1731 with the name
26 of each physician, except a referral physician, who provides written certification for 25 or more patients within a
27 12-month period. The board of medical examiners shall review the physician's practices in order to determine
28 whether they meet the standard of care.

29
30 **NEW SECTION. Section 6. Unlawful conduct by cardholder -- penalties.** (1) The department shall

1 revoke and may not reissue the registry identification card of a person who:

2 (a) is convicted of a drug offense; or

3 (b) allows another person to be in possession of the cardholder's card for any purpose.

4 (2) A violation of [sections 1 through 16] is punishable by a fine not to exceed \$10,000 or by imprisonment
5 in a county jail for a term not to exceed 1 year, or both, unless otherwise provided in [sections 1 through 16] or
6 unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be
7 charged and prosecuted pursuant to the provisions of Title 45.

8
9 **NEW SECTION. Section 7. Prohibitions on physician affiliation with therapeutic marijuana**

10 **licensees.** (1) (a) A physician may not:

11 (i) accept or solicit anything of value, including monetary remuneration, from a licensee or registrant or
12 offer anything of value to a licensee or registrant;

13 (ii) offer a discount or any other thing of value to an individual who uses or agrees to use a particular
14 licensee;

15 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where
16 therapeutic marijuana is grown, manufactured, sold, or distributed; or

17 (iv) hold an economic interest in an enterprise engaged in the therapeutic use of marijuana if the
18 physician certifies the debilitating medical condition of an applicant for a registry identification card.

19 (b) This subsection (1) does not prevent a physician from accepting a fee for providing medical care to
20 a licensee or a registrant if the physician charges the licensee or registrant the same fee as the physician charges
21 other patients for providing a similar level of medical care.

22 (2) If the department has cause to believe that a physician has violated this section, has violated a
23 provision of rules adopted pursuant to [sections 1 through 40], or has not met the standard of care required under
24 [sections 1 through 40], the department may refer the matter to the board of medical examiners for review
25 pursuant to 37-1-308.

26 (3) A violation of this section constitutes unprofessional conduct as set out in 37-1-316. If the board of
27 medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority
28 to provide written certification for the therapeutic use of marijuana. The board of medical examiners shall notify
29 the department of the sanction.

30 (4) If the board of medical examiners believes a physician's practices may harm the public health, safety,

1 or welfare, the board may summarily restrict, as provided in 2-4-631, a physician's authority to provide written
2 certification for the therapeutic use of marijuana.

3
4 **NEW SECTION. Section 8. Local government authority to regulate.** (1) To protect the public health,
5 safety, or welfare, a local government may by ordinance or resolution regulate a therapeutic marijuana grower
6 or a therapeutic marijuana-infused products manufacturer that operates within the local government's
7 jurisdictional area. The regulations may include but are not limited to:

8 (a) restrictions on number and location;
9 (b) business licensing requirements;
10 (c) building codes and standards; and
11 (d) the inspection of businesses to ensure compliance with any sanitary requirements established by the
12 state licensing authority.

13 (2) An incorporated city or town may adopt an ordinance or resolution that prohibits the cultivation or
14 manufacture of therapeutic marijuana by a therapeutic marijuana grower or a therapeutic marijuana-infused
15 products manufacturer within its jurisdictional area.

16
17 **NEW SECTION. Section 9. Health care facility procedures for patients who are registered**
18 **cardholders.** (1) Except for hospices that allow the therapeutic use of marijuana as provided in [section 14], a
19 health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who
20 is a registered cardholder has therapeutic marijuana in the patient's possession upon admission to the health care
21 facility:

22 (a) require the patient to remove the therapeutic marijuana from the premises before the patient is
23 admitted, if the patient is able to do so;

24 (b) make a reasonable effort to contact the patient's personal production assistant or a courier; or
25 (c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

26 (2) A personal production assistant or courier contacted by a health care facility shall remove the
27 therapeutic marijuana without charge to the health care facility and deliver it to the cardholder's residence or to
28 a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer for storage until the
29 patient is discharged from the facility. The personal production assistant or courier may return the therapeutic
30 marijuana to the cardholder upon the cardholder's discharge from the facility.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and storing the therapeutic marijuana until the patient is discharged from the facility.

(4) If the therapeutic marijuana is being held by a law enforcement agency, the patient may pick up the therapeutic marijuana upon discharge from the hospital at no cost to the patient.

(5) A health care facility may not be charged for costs related to removal of therapeutic marijuana from the facility's premises.

NEW SECTION. Section 10. Therapeutic use of marijuana -- limits on amount -- presumption of therapeutic use. (1) (a) Marijuana for therapeutic use may be cultivated or manufactured by:

(i) a registered cardholder who has indicated to the department that the cardholder will grow therapeutic marijuana for personal use at the cardholder's residence;

(ii) a therapeutic marijuana grower; or

(iii) a therapeutic marijuana-infused products manufacturer that has also obtained a therapeutic marijuana grower license.

(b) A cardholder who lives in a rental property must have the landlord's permission to cultivate or manufacture therapeutic marijuana in or on the rental property.

(2) (a) A registered cardholder may possess up to 4 mature marijuana plants, 12 seedlings, and a maximum of 2 ounces of usable marijuana at the cardholder's residence.

(b) A registered cardholder may not be in possession of more than 1 ounce when the cardholder is outside of the cardholder's residence.

(3) A therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer may provide no more than 2 ounces of usable marijuana or its equivalent in an infused product to a registered cardholder during a 30-day period. The licensee shall maintain records of transactions with cardholders to verify that the licensee has met the requirements of this section.

(4) Marijuana for therapeutic use by registered cardholders must be grown and manufactured in Montana.

(5) (a) A registered cardholder or licensee is presumed to be engaged in the therapeutic use of marijuana if the cardholder or licensee:

(i) is in possession of a registry identification card or an appropriate license; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 40].

1 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
2 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.
3

4 **NEW SECTION. Section 11. Confidentiality of registry information -- disclosure.** (1) The
5 department shall maintain a confidential list of individuals to whom the department has issued registry
6 identification cards. Individual names and other identifying information on the list must be confidential and are not
7 subject to disclosure, except to:

8 (a) authorized employees of the department and the state licensing authority as necessary to perform
9 official duties of the department or state licensing authority; or

10 (b) authorized employees of state or local government agencies, including law enforcement agencies,
11 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

12 (2) A person, including an employee or official of the department or other state or local government
13 agency, commits the offense of disclosure of confidential information relating to therapeutic use of marijuana if
14 the person knowingly or purposely discloses confidential information in violation of this section.

15 (3) A person convicted of disclosure of confidential information relating to therapeutic use of marijuana
16 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.
17

18 **NEW SECTION. Section 12. Legal protections for therapeutic use.** (1) An individual who possesses
19 a registry identification card issued pursuant to [section 4] or a person licensed or registered pursuant to [sections
20 17 through 40] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege,
21 including but not limited to civil penalty or disciplinary action by a professional licensing board or the department
22 of labor and industry, solely because:

23 (a) the registered cardholder acquires, possesses, cultivates, or manufactures marijuana not in excess
24 of the amounts allowed under [section 10];

25 (b) the registered cardholder uses therapeutic marijuana; or

26 (c) the licensee or registrant undertakes the activities allowed under the applicable license or registration.

27 (2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
28 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
29 department of labor and industry, solely for providing written certification for the therapeutic use of marijuana to
30 qualifying patients.

(3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) an individual's therapeutic use of marijuana impairs the individual's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 40].

(4) An interest in or right to property that is possessed, owned, or used in connection with the therapeutic use of marijuana or acts incidental to therapeutic use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the therapeutic use of marijuana as permitted under [sections 1 through 40].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of the therapeutic use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 37], possession of or application for a registry identification card or a license does not alone constitute probable cause to search the individual or the property of the individual or entity possessing or applying for the registry identification card, license, or registration or otherwise subject the individual or property of the individual or entity possessing or applying for the card or license to inspection by any governmental agency, including a law enforcement agency.

NEW SECTION. Section 13. Registry card or license to be carried and exhibited on demand -- photo identification required. A registered cardholder or an individual licensed or registered pursuant to [sections 1 through 40] shall have the cardholder's registry identification card or the individual's license or registration in the individual's immediate possession at all times. The individual shall display the registry identification card, license, or registration and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 14. Limitations of therapeutic marijuana act -- penalties. (1) [Sections 1 through 40] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana;

1 (b) the use of marijuana by a licensee;

2 (c) except as provided in subsection (3), the therapeutic use of marijuana:

3 (i) in a health care facility as defined in 50-5-101;

4 (ii) in a school or a postsecondary school as defined in 20-5-402;

5 (iii) on or in any property owned by a school district or a postsecondary school; or

6 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
7 used for school-related purposes; or

8 (d) the smoking of marijuana by a registered cardholder:

9 (i) in a school bus or other form of public transportation;

10 (ii) in a correctional facility;

11 (iii) at a public park, public beach, public recreation center, or youth center;

12 (iv) in plain view of or in a place open to the general public; or

13 (v) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
14 of children.

15 (2) A cardholder or licensee may not cultivate or manufacture therapeutic marijuana in a manner that is
16 visible from the street or other public area.

17 (3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows therapeutic use of
18 marijuana by a registered cardholder.

19 (4) Nothing in [sections 1 through 40] may be construed to require:

20 (a) a government medical assistance program or private health insurer to reimburse a person for costs
21 associated with the therapeutic use of marijuana; or

22 (b) an employer to accommodate the therapeutic use of marijuana in any workplace.

23 (5) Nothing in [sections 1 through 40] may be construed to allow a licensee or registrant to use marijuana
24 or to prevent criminal prosecution of a licensee or registrant who uses marijuana or paraphernalia for personal
25 use.

26 (6) (a) An individual who violates subsection (1)(a) is subject to a revocation of the individual's registry
27 identification card if the individual is convicted of or pleads guilty to any offense related to driving under the
28 influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of
29 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or
30 revocation set forth:

1 (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

2 (ii) in 61-8-410 for a violation of 61-8-410.

3 (b) If an individual's registry identification card is subject to renewal during the revocation period, the
4 individual may not renew the card until the full revocation period has elapsed. The card subsequently may be
5 renewed only if the individual submits all materials required for renewal.

6
7 **NEW SECTION. Section 15. Fraudulent representation of therapeutic use of marijuana -- penalty.**

8 (1) A person commits the offense of fraudulent representation of therapeutic use of marijuana if the person
9 knowingly or purposely fabricates or misrepresents to a law enforcement officer a registry identification card,
10 license, or registration issued pursuant to [sections 1 through 40].

11 (2) A person convicted of fraudulent representation of therapeutic use of marijuana shall be fined not to
12 exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

13
14 **NEW SECTION. Section 16. Rulemaking -- fees.** (1) The department shall adopt rules necessary for

15 the implementation and administration of [sections 1 through 16]. The rules must include but are not limited to:

16 (a) the manner in which the department will consider applications for registry identification cards for
17 qualifying patients and renewal of registry identification cards for registered cardholders;

18 (b) the acceptable forms of proof of Montana residency;

19 (c) the circumstances under which a patient's admittance into hospice care will qualify as a debilitating
20 medical condition;

21 (d) the diagnostic tests allowable as proof of a debilitating medical condition involving severe chronic
22 pain;

23 (e) the circumstances under which the department will notify the board of medical examiners of potential
24 violations of [section 7]; and

25 (f) other rules necessary to implement the purposes of the regulation of therapeutic marijuana.

26 (2) The department's rules must establish application and renewal fees that generate revenue sufficient
27 to offset all expenses of implementing and administering [sections 1 through 16]. The department may vary the
28 application and renewal fees along a sliding scale that accounts for an applicant's income.

29
30 **NEW SECTION. Section 17. State licensing authority.** (1) The state licensing authority may hire

1 employees to carry out the responsibilities assigned under [sections 17 through 40]. The employees are
2 employees of the public service commission.

3 (2) The operational costs of the state licensing authority related to carrying out its responsibilities under
4 [sections 17 through 40] must be fully funded by fees paid by licensees and registrants. The costs include but
5 are not limited to the costs of the authority's licensing, inspection, and investigation duties and operation of the
6 hotline provided for in [section 39].

7
8 **NEWSECTION. Section 18. State licensing authority -- powers and duties -- rulemaking authority.**

9 (1) The state licensing authority shall:

10 (a) grant or refuse state licenses for the cultivation, manufacture, distribution, transportation, and
11 provision of therapeutic marijuana as provided by law;

12 (b) suspend, restrict, or revoke licenses upon violation of [sections 1 through 40] or a rule adopted
13 pursuant to [sections 1 through 40];

14 (c) impose fines and penalties authorized by [sections 17 through 40] or a rule adopted pursuant to
15 [sections 17 through 40];

16 (d) take any action with respect to a registrant that it may take with respect to a licensee;

17 (e) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and
18 control of the cultivation, manufacture, distribution, transportation, and provision of therapeutic marijuana and for
19 the enforcement of [sections 1 through 40];

20 (f) hear and determine at a public hearing:

21 (i) an appeal of a state license denial; or

22 (ii) a complaint against a licensee;

23 (g) administer oaths and issue subpoenas to require the presence of persons and the production of
24 materials necessary for a hearing held pursuant to this section;

25 (h) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of
26 therapeutic marijuana provided to a particular individual or any other records that are exempt from public
27 inspection pursuant to state law;

28 (i) develop the forms, licenses, identification cards, and applications necessary for the administration of
29 [sections 17 through 40]; and

30 (j) report annually to the legislature the number of applications received and granted for each type of

1 license, the geographic locations of licensees, the number of registered cardholders served by each licensee,
2 and the number and types of licenses revoked by the state licensing authority. The report may not provide any
3 individually identifying information about licensees.

4 (2) A hearing held pursuant to this section must comply with the provisions of Title 2, chapter 4.

5 (3) The state licensing authority may adopt rules to carry out its duties and responsibilities, including but
6 not limited to rules related to:

7 (a) licensing procedures, including:

8 (i) procedures for applications for initial licenses, renewals, and reinstatements;

9 (ii) procedures for approval, denial, or suspension of a license;

10 (iii) provisions for fines and license restrictions or revocations;

11 (iv) the procedure and fees for submitting fingerprints for background checks; and

12 (v) the fees to be charged for license applications, license issuance, license renewals or reinstatements,
13 applications to change locations, and applications to transfer ownership. The fees must cover the operational
14 costs of the state licensing authority.

15 (b) the duties of officers and employees of the state licensing authority;

16 (c) requirements for inspections, investigations, searches, and seizures;

17 (d) penalties for violation of the provisions of [sections 17 through 40];

18 (e) prohibitions on misrepresentation and unfair practices;

19 (f) control of informational and product displays on licensed premises;

20 (g) development of individual identification cards for officers, managers, contractors, employees, and
21 other support staff of entities licensed or registered by the state licensing authority pursuant to [sections 17
22 through 40];

23 (h) security requirements for a licensed premises including, at a minimum, the lighting, physical security,
24 video, and alarm requirements and other minimum procedures for internal control as determined necessary for
25 the proper administration and enforcement of [sections 1 through 40];

26 (i) requirements for reporting changes, alterations, or modifications to a licensed premises;

27 (j) the storage of and transportation of therapeutic marijuana;

28 (k) sanitary requirements for therapeutic marijuana growers and for therapeutic marijuana-infused
29 products manufacturers;

30 (l) the acceptable forms of photo identification that a licensee may accept when verifying a transaction;

1 (m) labeling standards;

2 (n) records to be kept by licensees and the required availability of the records, including the availability
3 of information ensuring payment of applicable taxes;

4 (o) the sharing of information with other state agencies and with state and local law enforcement
5 agencies;

6 (p) the use of genetic markers, if feasible, to verify the source of marijuana in a registered cardholder's
7 possession or confiscated by a law enforcement agency; and

8 (q) other rules necessary to carry out the provisions of [sections 1 through 40].

9 (4) Nothing in [sections 1 through 40] may be construed to limit a law enforcement agency's ability to
10 investigate unlawful activity in relation to a licensee or registrant. A law enforcement agency may run a Montana
11 criminal justice information network criminal history record check of a licensee or a registrant during an
12 investigation of unlawful activity related to therapeutic marijuana.

13
14 **NEW SECTION. Section 19. Requirements for provision of therapeutic marijuana.** (1) The state
15 licensing authority shall establish by rule a process by which registered cardholders who plan to obtain
16 therapeutic marijuana from a therapeutic marijuana grower or therapeutic marijuana-infused products
17 manufacturer are provided with information about the grower or manufacturer from which the therapeutic
18 marijuana may be obtained.

19 (2) A registered cardholder may not obtain therapeutic marijuana directly from a therapeutic marijuana
20 grower or therapeutic marijuana-infused product manufacturer.

21 (3) The rules must include but are not limited to:

22 (a) the use of a courier to transport and deliver therapeutic marijuana;

23 (b) the manner in which licensees will ensure that therapeutic marijuana is provided only to registered
24 cardholders; and

25 (c) the procedures a licensee shall follow if the licensee has reasonable cause to believe an individual
26 is using a fraudulent registry identification card in an effort to obtain therapeutic marijuana.

27 (4) A licensee may provide a small amount of its therapeutic marijuana or therapeutic marijuana-infused
28 product for testing to a laboratory that is registered pursuant to rules adopted by the state licensing authority
29 pursuant to [sections 1 through 40].

30 (5) Therapeutic marijuana and marijuana-infused products must be labeled with a list of all chemical

additives that were used in the cultivation and production of the therapeutic marijuana or marijuana-infused product, including but not limited to nonorganic pesticides, herbicides, and fertilizers.

NEW SECTION. Section 20. Organizations eligible for certain licenses -- requirements. (1) To qualify for licensure as a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer, an applicant must be an organization that is formed or incorporated with a five-member structure of control and that operates the licensed activities on a reimbursement-of-costs basis and not for the purposes of earning a profit.

(2) An applicant under this section shall provide the state licensing authority with:

(a) proof of the organization's structure of control;

(b) a list of all individuals:

(i) with direct or indirect authority over the management policies of the facility; and

(ii) having a 5% or greater ownership in the licensed premises, whether the ownership is direct or indirect and is in land, buildings, or other materials. The information must include owners of any entity that owns all or part of the land.

(c) a brief business plan showing how the organization will fund operations during the first 2 years of licensing, including the funding sources to be used;

(d) a description of the facility that will be used for the production of therapeutic marijuana; and

(e) other information as required by the state licensing authority.

NEW SECTION. Section 21. Classes of licenses -- disclosure -- confidentiality. (1) The state licensing authority may issue:

(a) a courier license;

(b) a personal production assistant license;

(c) a therapeutic marijuana grower license;

(d) a therapeutic marijuana-infused products manufacturer license; and

(e) registrations for managers, operators, employees, contractors, and other support staff employed by, working in, or having access to a limited access area of a licensed premises.

(2) The state licensing authority may take any action with respect to a registrant pursuant to [sections 17 through 40] that it may take with a licensee.

(3) The state licensing authority shall provide each appropriate local law enforcement agency with the name and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose the information to authorized employees of the agency as necessary to verify that a therapeutic marijuana operation is licensed and is in compliance with the provisions of [sections 17 through 40].

NEWSECTION. Section 22. Couriers -- requirements -- allowable activities. (1) The state licensing authority may issue a courier license to an individual or business to transport therapeutic marijuana or therapeutic marijuana-infused products from a licensed therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer to a registered cardholder.

(2) An applicant for a courier license shall:

(a) undergo the licensing procedures established in [section 26]; and

(b) submit application materials as required by the state licensing authority, including but not limited to a statement acknowledging that possession of the license does not allow the person to engage in the use of therapeutic marijuana or paraphernalia and agreeing not to divert therapeutic marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40].

(3) A courier shall contract with the therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer and may be reimbursed at a rate established by the state licensing authority.

(4) Before a courier transports or delivers therapeutic marijuana, the courier shall notify the local law enforcement agencies having jurisdiction in the areas where the courier will obtain and deliver the therapeutic marijuana. The courier shall specify the licensee from whom the courier is obtaining therapeutic marijuana and the registered cardholder to whom the courier is delivering the therapeutic marijuana.

(5) The state licensing authority may adopt rules relating to the amount of therapeutic marijuana that a courier may possess and transport at any given time.

(6) The state licensing authority may grant a courier license to a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer under exceptional circumstances as established by rule. Exceptional circumstances include but are not limited to the proximity of registered cardholders to a therapeutic marijuana grower or infused products manufacturer.

NEWSECTION. Section 23. Personal production assistants -- requirements -- allowable activities.

(1) The state licensing authority shall issue a license to an individual who is named as a personal production

1 assistant in a registered cardholder's approved application if the individual:

2 (a) registers the individual's street address with the state licensing authority;

3 (b) signs a statement:

4 (i) agreeing to:

5 (A) assist in cultivating or manufacturing therapeutic marijuana only for registered cardholders who have
6 named the applicant as their personal production assistant;

7 (B) transport therapeutic marijuana only as allowed in [section 9]; and

8 (C) notify the state licensing authority and other regulatory entities within 10 days of any change in the
9 individual's street address or in the street address where the therapeutic marijuana is cultivated or manufactured;
10 and

11 (ii) acknowledging that the individual may not engage in the use of therapeutic marijuana or use
12 paraphernalia for any purpose other than cultivating or manufacturing marijuana for therapeutic use by a
13 registered cardholder; and

14 (iii) pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to
15 [sections 1 through 40];

16 (c) undergoes the licensing procedures established in [section 26]; and

17 (d) is not prohibited from licensure under the provisions of [section 27].

18 (2) An individual may serve as a personal production assistant for no more than four registered
19 cardholders unless the state licensing authority approves a personal production assistant to serve more than four
20 patients because of exceptional circumstances. Exceptional circumstances include but are not limited to the
21 registered cardholder's proximity to a therapeutic marijuana grower or therapeutic marijuana-infused products
22 manufacturer.

23 (3) A personal production assistant may not:

24 (a) receive compensation for activities allowed under [sections 1 through 40];

25 (b) hold any other license issued under [sections 17 through 40];

26 (c) delegate to another person the personal production assistant's authority to assist in the production
27 of therapeutic marijuana for a cardholder or engage others to assist in the production of therapeutic marijuana
28 for a cardholder; or

29 (d) cultivate or manufacture therapeutic marijuana at a location other than the residence of the registered
30 cardholder.

(4) A personal production assistant shall maintain at all times a list of the registered cardholders who have named the individual as their personal production assistant. The list must include the registry identification card number of each patient and must be provided to a law enforcement agency upon request.

NEW SECTION. Section 24. Therapeutic marijuana grower -- requirements -- allowable activities.

(1) An organization licensed as a therapeutic marijuana grower shall cultivate marijuana at a licensed premises.

(2) A therapeutic marijuana grower shall:

(a) limit its therapeutic marijuana production to:

(i) 95 mature plants; and

(ii) the number of seedlings, cuttings, and clones and inventory of usable marijuana set by the state licensing authority by rule; and

(b) submit to the state licensing authority an acknowledgment that it will not exceed allowable production limits.

(3) A therapeutic marijuana grower may:

(a) sell marijuana to a therapeutic marijuana-infused products manufacturer as allowed by the state licensing authority; and

(b) contract with a courier to deliver therapeutic marijuana to a registered cardholder.

(4) A therapeutic marijuana grower may not:

(a) transfer therapeutic marijuana to another grower; or

(b) conduct transactions directly with a registered cardholder at the therapeutic marijuana grower's licensed premises.

(5) Therapeutic marijuana may not be used in any form on the licensed premises.

NEW SECTION. Section 25. Therapeutic marijuana-infused products manufacturer -- allowable activities. (1) An organization licensed as a therapeutic marijuana-infused products manufacturer shall:

(a) prepare therapeutic marijuana-infused products on a licensed premises that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products;

(b) use equipment that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products; and

(c) if it does not have a therapeutic marijuana grower license, execute a written agreement or contract

1 with a therapeutic marijuana grower that states at a minimum:

2 (i) the total amount of therapeutic marijuana to be obtained from the therapeutic marijuana grower and
3 used in the manufacturing process; and

4 (ii) the total amount of therapeutic marijuana-infused products to be manufactured from the therapeutic
5 marijuana obtained from the therapeutic marijuana grower.

6 (2) All licensed premises on which therapeutic marijuana-infused products are manufactured must meet:

7 (a) the sanitary standards for therapeutic marijuana-infused product preparation adopted by the state
8 licensing authority; and

9 (b) any applicable standards set by a local board of health for a food service establishment as defined
10 in 50-50-102.

11 (3) The state licensing authority shall determine the maximum amount and forms of marijuana that a
12 therapeutic marijuana-infused products manufacturer may obtain from a therapeutic marijuana grower.

13 (4) A therapeutic marijuana-infused product must be prepackaged and labeled in accordance with rules
14 adopted by the state licensing authority to indicate at a minimum that:

15 (a) the product contains therapeutic marijuana;

16 (b) the product is manufactured without any regulatory oversight for efficacy; and

17 (c) health risks may be associated with the consumption or use of the product.

18 (5) Therapeutic marijuana and therapeutic marijuana-infused products may not be consumed on a
19 licensed premises.

20 (6) A therapeutic marijuana-infused products manufacturer that also has a therapeutic marijuana grower
21 license may use the marijuana from the licensed premises affiliated with its grower license only for the purposes
22 of making therapeutic marijuana-infused products at its manufacturing premises.

23 (7) Therapeutic marijuana-infused products may not be considered a food or drug for the purposes of
24 Title 50, chapter 31.

25
26 **NEW SECTION. Section 26. Licensing procedures -- background checks.** (1) An applicant for a
27 license or registration shall submit the following, in accordance with rules adopted by the state licensing authority:

28 (a) the name and street address of the applicant;

29 (b) the names and street addresses of the officers, directors, or managers involved with the applicant;

30 (c) the street address or physical description, if no street address is available, where the applicant's

1 facility will be located;

2 (d) application and licensing fees as established by the state licensing authority in rule; and

3 (e) any other information required by the state licensing authority.

4 (2) Payment of the fee and submission of an application do not create an entitlement to receive a license
5 or a registration.

6 (3) (a) An applicant shall submit fingerprints to facilitate a fingerprint and background check by the
7 department of justice and the federal bureau of investigation.

8 (b) The state licensing authority may acquire a name-based criminal history record check for an applicant,
9 licensee, or registrant who has twice submitted to a fingerprint-based criminal history record check and whose
10 fingerprints are unclassifiable.

11 (4) The state licensing authority shall use the information resulting from a criminal history record check
12 conducted under this section to investigate and determine whether an applicant is qualified to hold a state license
13 or registration pursuant to [sections 17 through 40]. The state licensing authority may verify any information an
14 applicant is required to submit.

15 (5) (a) Except as provided in subsection (6)(b), a license or registration issued pursuant to this section
16 is valid for 2 years from the date of issuance unless revoked or suspended pursuant to [section 36 or 38].

17 (b) A personal production assistant license is valid for:

18 (i) the same period of time as the registry identification cards for the registered cardholders who have
19 named the individual as their personal production assistant; or

20 (ii) a maximum of 2 years if the registry identification card of at least one of the registered cardholders
21 who have named the individual as their personal production assistant would expire more than 2 years after the
22 individual was first licensed.

23 (6) Each license or registration issued under [sections 17 through 40] is separate and distinct. A licensee
24 or registrant may not:

25 (a) exercise any of the privileges granted under a license or registration other than the license or
26 registration that the licensee or registrant holds; or

27 (b) allow another person to exercise the privileges granted under the license or registration.

28 (7) (a) A licensee shall notify the state licensing authority in writing of the name, street address, and date
29 of birth of a new officer, manager, or employee before the new officer, manager, or employee begins working
30 at, managing, or being associated with the licensee.

1 (b) Before the individual may begin the association with the licensee, the individual shall:

2 (i) submit fingerprints to facilitate a fingerprint and background check by the department of justice and
3 the federal bureau of investigation; and

4 (ii) obtain the identification required by the state licensing authority.
5

6 **NEW SECTION. Section 27. Persons prohibited as licensees.** The state licensing authority may not
7 issue a license to:

8 (1) an individual with a felony conviction;

9 (2) a licensed physician providing written certification for the therapeutic use of marijuana;

10 (3) an individual under the supervision of the department of corrections or a youth court;

11 (4) a licensee who, during a period of licensure or at the time of application, has failed to:

12 (a) pay any taxes, interest, or penalties due;

13 (b) pay a judgment due to a government agency;

14 (c) stay out of default on a government-issued student loan;

15 (d) pay child support; or

16 (e) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
17 agency;

18 (5) a person who employs an individual who has not passed a criminal history record check;

19 (6) a peace officer, as defined in 45-2-101;

20 (7) an officer or employee of the state licensing authority;

21 (8) a person whose authority for a license of a different class has been revoked by the state licensing
22 authority;

23 (9) a person for a license for a location that is currently licensed pursuant to 50-57-201 as an
24 establishment or a retail food establishment; or

25 (10) an individual who has not been a resident of Montana for at least 5 years prior to the date of the
26 person's application.
27

28 **NEW SECTION. Section 28. Denial of license.** (1) The state licensing authority shall deny a license
29 to an applicant or licensee if:

30 (a) the premises on which the applicant proposes to conduct operations do not meet the requirements

1 of [sections 1 through 40];

2 (b) the applicant does not meet or fails to comply with any of the terms, conditions, or provisions of
3 [sections 1 through 40] or any rules adopted by the state licensing authority;

4 (c) the applicant fails to comply with any special terms or conditions that were placed on its license; or

5 (d) the licensed premises has been operated in a manner that adversely affects the public health or
6 welfare or the safety of the community in which the licensed premises is located.

7 (2) An applicant who is denied a license pursuant to subsection (1) is entitled to a hearing pursuant to
8 Title 2, chapter 4. The state licensing authority shall provide written notice of the reasons for denial at least 15
9 days before the hearing.

10
11 **NEW SECTION. Section 29. Restrictions applicable to new licenses -- local government authority.**

12 (1) The state licensing authority may not accept or approve an application for a license:

13 (a) until it is established that the applicant is or will be entitled to possession of the premises through a
14 lease, rental agreement, or other arrangement for possession or by virtue of ownership of the premises;

15 (b) for a location in an area where the cultivation, manufacture, and provision of therapeutic marijuana
16 as contemplated is not permitted under the applicable local government zoning laws; or

17 (c) if the building in which therapeutic marijuana is to be cultivated or manufactured is located within 2,000
18 feet of a school, a family or group day-care home as defined in 52-2-703, an alcohol or drug treatment facility,
19 or the principal campus of a postsecondary school or seminary. The distance must be measured in a straight line
20 from the nearest property line of the land used for a school, day-care home, alcohol or drug treatment center,
21 campus, or seminary to the nearest portion of the building to be used by the applicant.

22 (2) A local government may by ordinance or resolution vary the distance restrictions imposed by this
23 section or may eliminate one or more types of schools, campuses, or facilities from the application of a distance
24 restriction.

25
26 **NEW SECTION. Section 30. Licenses -- contents and display.** (1) A license issued pursuant to
27 [sections 17 through 40] must specify the date of issuance, the period of licensure, the name of the licensee, and
28 the premises that is licensed.

29 (2) The license must be conspicuously displayed at all times at the premises for which it is issued.

30 (3) The licensee shall at all times possess and maintain possession of the premises for which the license

1 is issued. Possession may be by ownership, lease, rental, or other arrangement.

2

3 **NEW SECTION. Section 31. Cash transactions prohibited.** (1) Cash transactions related to
4 therapeutic marijuana are prohibited.

5 (2) A licensee shall retain all documents related to transactions involving therapeutic marijuana, including
6 documents verifying the type of payment used for the transaction.

7 (3) A licensee shall make all documents related to transactions available to the state licensing authority
8 for inspection upon request.

9 (4) This section does not prohibit the use of checks, money orders, prepaid cards, debit cards, or credit
10 cards to reimburse licensees for costs.

11

12 **NEW SECTION. Section 32. Transfer of ownership -- change of location or manager.** (1) A
13 therapeutic marijuana grower license or therapeutic marijuana-infused manufacturer license may be transferred
14 to another organization upon application to the state licensing authority on forms prepared and furnished by the
15 state licensing authority. In determining whether to permit a transfer of ownership, the state licensing authority
16 shall consider the requirements of [sections 17 through 40] and rules adopted pursuant to [sections 17 through
17 40].

18 (2) A personal production assistant license or courier license is not transferable.

19 (3) A licensee shall report a transfer or change of ownership to the state licensing authority 30 days
20 before a transfer or change of ownership occurs.

21 (4) A report is required for transfers of capital stock of any corporation.

22 (5) Upon approval from the state licensing authority, a licensee may move the licensee's permanent
23 location to any place in the same city, town, or county for which the license was originally granted. Before granting
24 the request, the state licensing authority shall consider whether the proposed change of location would conform
25 with city, town, or county zoning requirements or regulatory decisions made pursuant to [section 8].

26 (6) A licensee shall employ a separate and distinct manager on the premises. The licensee shall report
27 to the state licensing authority:

28 (a) the name of the manager; and

29 (b) a change in manager 30 days prior to any change.

30

1 **NEW SECTION. Section 33. Unlawful financial assistance.** (1) The state licensing authority shall
2 require a complete disclosure of all persons having a direct or indirect financial interest in each license issued
3 pursuant to [sections 17 through 40]. The disclosure must include the extent of each person's financial interest.

4 (2) This section does not apply to:

5 (a) a financial institution as defined in 32-6-103;

6 (b) federal housing administration-approved mortgages; or

7 (c) stockholders, directors, or officers of financial institutions or the federal housing administration.

8 (3) This section is intended to prohibit and prevent the control of licenses by an individual, organization,
9 or business that is not licensed pursuant to the provisions of [sections 1 through 40].
10

11 **NEW SECTION. Section 34. License renewal.** (1) For all licenses except personal production
12 assistant licenses, the state licensing authority shall notify the licensee 90 days in advance of the expiration of
13 the license. The notification must be sent by first-class mail to the licensee's address of record with the state
14 licensing authority. Except as provided in subsection (2), a licensee shall apply for the renewal of an existing
15 license at least 30 days before the expiration date of the license.

16 (2) The state licensing authority, in its discretion and based upon reasonable grounds, may waive the
17 30-day requirement.

18 (3) (a) A licensee whose license has been expired for 90 days or less may file a late renewal application
19 upon the payment of a nonrefundable late application fee. A licensee who files a late renewal application and
20 pays the fee may continue to operate until the state licensing authority has taken final action on the application
21 unless the state licensing authority summarily suspends the license as provided in [section 38].

22 (b) A licensee whose license has been expired for more than 90 days may not cultivate, manufacture,
23 or distribute or otherwise transfer therapeutic marijuana until the person has obtained a new license.
24

25 **NEW SECTION. Section 35. Inactive licenses.** The state licensing authority may revoke or elect not
26 to renew a license if it determines that the licensed premises has been inactive for at least 90 days.
27

28 **NEW SECTION. Section 36. Unlawful acts by licensees.** (1) Except as otherwise provided in [sections
29 1 through 40], it is unlawful for a licensee to:

30 (a) possess more plants and usable marijuana than allowed by the terms of the license issued by the

1 state licensing authority or any rules adopted by the state licensing authority pursuant to [sections 17 through 40];

2 (b) have in possession or upon the licensed premises an amount of therapeutic marijuana in excess of
3 the amount allowed by the license;

4 (c) allow any use of therapeutic marijuana upon a licensed premises;

5 (d) have on the licensed premises any therapeutic marijuana or marijuana paraphernalia that shows
6 evidence of the therapeutic marijuana having been consumed or partially consumed;

7 (e) continue operating for the purpose of cultivation or manufacture of therapeutic marijuana or
8 therapeutic marijuana-infused products without filing the forms and paying the fees required under [sections 17
9 through 40];

10 (f) transfer or acquire therapeutic marijuana except as allowed pursuant to [sections 1 through 40];

11 (g) allow a person to be within a limited access area unless:

12 (i) the person's license or registration from the state licensing authority allows access and the person's
13 license or registration is displayed as required by [sections 1 through 40]; or

14 (ii) the person is an employee of the state licensing authority conducting an inspection pursuant to
15 [section 37];

16 (h) fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous
17 locations as required by rules adopted pursuant to [sections 17 through 40];

18 (i) fail to report a transfer or change of ownership or financial interest as required by [section 32];

19 (j) fail to report the names of or a change in managers as required by [section 32];

20 (k) display any signs;

21 (l) advertise in any medium, including electronic media;

22 (m) provide public premises for the purpose of using therapeutic marijuana in any form;

23 (n) provide therapeutic marijuana to a person not licensed pursuant to [sections 17 through 40] or to an
24 individual who is unable to produce a valid registry identification card;

25 (o) offer for sale or solicit an order for therapeutic marijuana;

26 (p) provide therapeutic marijuana anywhere other than the licensed premises specifically designated in
27 the license unless the licensee is a courier; or

28 (q) violate the provisions of 30-14-205 and 30-14-209.

29 (2) (a) It is unlawful for a therapeutic marijuana grower to possess, transfer, deliver, or cause to be
30 delivered to any person therapeutic marijuana not grown upon its licensed premises.

(b) A violation of this subsection (2) is grounds for the immediate revocation of the license granted under [sections 17 through 40].

(3) (a) It is unlawful for a physician to make patient referrals to a therapeutic marijuana licensee or to receive anything of value from a licensee or its agents, servants, or officers or anyone with a financial interest in the license.

(b) It is unlawful for a licensee or registrant to offer anything of value to a physician.

(4) A person who violates a provision of this section commits a misdemeanor that is punishable by a fine not to exceed \$10,000 or by imprisonment in a county jail for a term not to exceed 1 year, or both, unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 37. Inspection procedures. (1) The state licensing authority may conduct frequent, unannounced inspections.

(2) (a) Each licensee shall keep a complete set of records necessary to show all business transactions. The records must be open for inspection by the state licensing authority at any time during business hours.

(b) The state licensing authority may require:

(i) a licensee to furnish information it considers necessary for the proper administration of [sections 1 through 40]; and

(ii) an audit of the licensee's records and accounts by an auditor selected by the state licensing authority. The auditor may have access to all books and records of the licensee.

(3) The licensee shall pay the costs of an audit required under this section.

(4) (a) A licensed premises, including any places of storage, where therapeutic marijuana is cultivated, manufactured, stored, cultivated, or distributed is subject to entry by the state licensing authority for the purpose of inspection or investigation during all business hours and other times of apparent activity.

(b) (i) For examination of inventory or books and records required to be kept by the licensee, the state licensing authority may have access during business hours.

(ii) If any part of the licensed premises consists of a locked area, the licensee shall make the area available for inspection without delay upon request of the state licensing authority.

(5) A licensee shall keep all books and records showing all business transactions of the licensee for the current tax year and the 7 tax years immediately preceding the current tax year.

(6) Within 15 days after the end of each month and in a manner prescribed by the state licensing authority, a licensee shall file a statement showing for that month:

(a) the total gross income collected through reimbursement of costs;

(b) the amount of usable marijuana produced;

(c) the number of plants grown, seedlings started, and cuttings and clones in inventory;

(d) the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder; and

(e) the number of mature plants, seedlings, cuttings, and clones and amount of usable marijuana remaining in inventory.

NEW SECTION. Section 38. Penalties for licensees. (1) The state licensing authority may summarily suspend a license or issue a notice of contemplated action for a violation of any provision of [sections 17 through 40] or rules adopted pursuant to [sections 17 through 40].

(2) A license may be revoked, suspended, or subject to other disciplinary action and a renewal action may be denied for:

(a) failure to comply with or satisfy any provisions of [sections 1 through 40] or rules adopted by the state licensing authority;

(b) failure to allow an inspection by an authorized representative of the state licensing authority;

(c) falsification of any material or information submitted to the state licensing authority;

(d) diversion of therapeutic marijuana as determined by the state licensing authority; or

(e) threatening or harming a registered cardholder, a physician, or an employee of the state licensing department.

(3) (a) A licensee whose license has been summarily suspended or who has received a notice of contemplated action may request a hearing and an administrative review of written materials as applicable. The licensee shall file the request for a hearing within 30 days of the date the action is taken or the notice is received.

(b) The request must be sent to the state licensing authority and include:

(i) the requester's name, address, and telephone number;

(ii) a statement of the facts relevant to the review of the action;

(iii) a statement of the statutes and administrative rules relevant to the review of the action; and

1 (iv) any other information or evidence the requester considers relevant to the request.

2 (4) The state licensing authority shall consider the request as provided in title 2, chapter 4.

3
4 **NEW SECTION. Section 39. Hotline.** (1) The state licensing authority shall create and maintain a
5 hotline to receive reports of suspected abuse of the provisions of [sections 1 through 40].

6 (2) The state licensing authority may:

7 (a) investigate reports of suspected abuse of the provisions of [sections 1 through 40]; or

8 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where
9 the suspected abuse is occurring.

10
11 **NEW SECTION. Section 40. Special revenue account.** (1) There is an account in the state special
12 revenue fund to the credit of the state licensing authority for use in administering [sections 17 through 40]. The
13 account consists of money deposited into the account from licensing fees and penalties assessed by the state
14 licensing authority and any other source of revenue due to the state licensing authority. Interest earned on the
15 account must be deposited into the account and used to sustain the account.

16 (2) Money from the account must be used to cover the expenses of the state licensing authority.

17 (3) Money remaining in the account at the end of the fiscal year must be transferred to the general fund.

18
19 **Section 41.** Section 37-1-136, MCA, is amended to read:

20 **"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing
21 board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided
22 by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

23 (a) revocation of a license;

24 (b) suspension of its judgment of revocation on terms and conditions determined by the board;

25 (c) suspension of the right to practice for a period not exceeding 1 year;

26 (d) placing a licensee on probation;

27 (e) reprimand or censure of a licensee; or

28 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
29 proper.

30 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the

1 provisions of the Montana Administrative Procedure Act.

2 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from
3 engaging in the practice of the occupation or profession regulated by the board until a license to practice is
4 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

5 (4) An action may not be taken against a person who is in compliance with ~~Title 50, chapter 46~~ sections
6 1 through 40.

7 (5) Rules adopted under subsection (1) must provide for the provision of public notice as required by
8 37-1-311."

9
10 **Section 42.** Section 37-1-316, MCA, is amended to read:

11 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
12 applicant governed by this part:

13 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
14 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
15 theft, whether or not an appeal is pending;

16 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
17 licensure or certification;

18 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
19 securing a license or license renewal or in taking an examination required for licensure;

20 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
21 knows or reasonably ought to know contains a false or misleading statement;

22 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
23 the profession or occupation;

24 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
25 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
26 law, rule, or ordinance governing the licensee's profession or occupation;

27 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
28 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
29 on appeal, under judicial review, or has been satisfied;

30 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

1 (9) revealing confidential information obtained as the result of a professional relationship without the prior
2 consent of the recipient of services, except as authorized or required by law;

3 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
4 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

5 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
6 the profession or occupation with reasonable skill and safety;

7 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
8 disease involving serious risk to public health or without taking adequate precautions, including but not limited
9 to informed consent, protective gear, or cessation of practice;

10 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
11 regarding the accounting and distribution of a client's property or funds;

12 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
13 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
14 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
15 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
16 filed, prosecuted, or completed;

17 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
18 organization to practice or offer to practice by use of the licensee's license;

19 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
20 appeal, against the licensee or of an action against the licensee by a:

21 (a) peer review committee;

22 (b) professional association; or

23 (c) local, state, federal, territorial, provincial, or Indian tribal government;

24 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
25 implementing 28-10-103(3)(a);

26 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
27 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
28 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
29 to prove conduct that does not meet generally accepted standards.

30 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required

1 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]."

2
3 **Section 43.** Section 37-3-343, MCA, is amended to read:

4 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
5 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
6 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

7 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
8 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
9 to become board-certified and on which the physician bases the physician's application for a telemedicine license
10 pursuant to 37-3-345(2).

11 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
12 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
13 present within the state.

14 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
15 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40].

16 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
17 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
18 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
19 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

20
21 **Section 44.** Section 37-3-347, MCA, is amended to read:

22 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
23 deny an application for a telemedicine license if the applicant:

24 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
25 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

26 (b) plans to use telemedicine as a means of obtaining the information required for a written certification
27 that is used to apply for a registry identification card pursuant to [sections 1 through 40];

28 ~~(b)~~(c) fails to pay a required fee;

29 ~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

30 ~~(d)~~(e) has committed unprofessional conduct.

1 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
2 apply for a physician's license in order to practice medicine in Montana."

3
4 **Section 45.** Section 41-5-216, MCA, is amended to read:

5 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
6 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
7 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
8 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
9 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
10 extended jurisdiction.

11 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
12 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
13 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
14 court.

15 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
16 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

17 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
18 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
19 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
20 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
21 offender pursuant to Title 46, chapter 23, part 5.

22 (5) After formal youth court records, law enforcement records, and department records are sealed, they
23 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
24 a new offense, to:

25 (a) those persons and agencies listed in 41-5-215(2); and

26 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
27 age of majority.

28 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
29 under subsection (1), the electronic records of the management information system maintained by the department
30 of public health and human services and by the department relating to the youth whose records are being sealed

1 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

2 (b) The department of public health and human services and the department shall disassociate the
3 offense and disposition information from the name of the youth in the respective management information system.

4 The offense and disposition information must be maintained separately and may be used only:

5 (i) for research and program evaluation authorized by the department of public health and human
6 services or by the department and subject to any applicable laws; and

7 (ii) as provided in Title 5, chapter 13.

8 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
9 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
10 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
11 only pursuant to subsection (5).

12 (b) The informal youth court records may be maintained and inspected only by youth court personnel
13 upon a new offense prior to the youth's 18th birthday.

14 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
15 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
16 in hard-copy form must be destroyed and any electronic records in the youth court management information
17 system must disassociate the offense and disposition information from the name of the youth and may be used
18 only for the following purposes:

19 (i) for research and program evaluation authorized by the office of the court administrator and subject
20 to any applicable laws; and

21 (ii) as provided in Title 5, chapter 13.

22 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
23 court records within the juvenile probation management information system. Electronic records of the youth court
24 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
25 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
26 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
27 as provided in subsection (2) of this section.

28 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
29 court records within the department's youth management information system. Electronic records of the
30 department's youth management information system may not be shared except as provided in subsection (5).

1 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
2 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
3 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

4 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
5 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
6 of a youth within the facility.

7 (11) This section does not prohibit access to formal or informal youth court records, including electronic
8 records, for purposes of conducting evaluations as required by 41-5-2003.

9 (12) This section does not prohibit the office of court administrator, upon written request from the
10 department of public health and human services or the state licensing authority as defined in [section 2], from
11 confirming whether a youth applying for a registry identification card or a license or registration as provided in
12 [sections 1 through 40] is currently under youth court supervision."

13
14 **Section 46.** Section 45-9-101, MCA, is amended to read:

15 **"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in ~~Title 50, chapter 46~~
16 [sections 1 through 40], a person commits the offense of criminal distribution of dangerous drugs if the person
17 sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as
18 defined in 50-32-101.

19 (2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an
20 opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or
21 more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

22 (3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule
23 II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for
24 criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or
25 more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or
26 subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison
27 for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided
28 in 46-18-222.

29 (4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
30 subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than

1 life or be fined an amount of not more than \$50,000, or both.

2 (5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of
3 dangerous drugs to a minor shall be sentenced as follows:

4 (a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less
5 than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

6 (b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
7 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the
8 state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as
9 provided in 46-18-222.

10 (c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
11 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be
12 imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than
13 \$50,000, except as provided in 46-18-222.

14 (d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less
15 than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

16 (6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
17 professional practice are exempt from this section."

18
19 **Section 47.** Section 45-9-102, MCA, is amended to read:

20 **"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in ~~Title 50, chapter 46~~
21 [sections 1 through 40], a person commits the offense of criminal possession of dangerous drugs if the person
22 possesses any dangerous drug, as defined in 50-32-101.

23 (2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate
24 weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a
25 misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in
26 the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended
27 or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable
28 by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state
29 prison for a term not to exceed 3 years or by both.

30 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first

1 offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by
2 imprisonment in the county jail for not more than 6 months, or both.

3 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be
4 imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more
5 than \$50,000, except as provided in 46-18-222.

6 (5) (a) A person convicted of a second or subsequent offense of criminal possession of
7 methamphetamine shall be punished by:

8 (i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or

9 (ii) commitment to the department of corrections for placement in an appropriate correctional facility or
10 program for a term of not less than 3 years or more than 5 years. If the person successfully completes a
11 residential methamphetamine treatment program operated or approved by the department of corrections during
12 the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not
13 to exceed \$50,000.

14 (b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place
15 the person in a residential methamphetamine treatment program operated or approved by the department of
16 corrections or in a correctional facility or program. The residential methamphetamine treatment program must
17 consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based
18 prerelease center.

19 (c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

20 (i) the person to abide by the standard conditions of probation established by the department of
21 corrections;

22 (ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person
23 if the person is financially able to pay those costs;

24 (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption
25 on the premises or where gambling takes place;

26 (iv) that the person may not consume alcoholic beverages;

27 (v) the person to enter and remain in an aftercare program as directed by the person's probation officer;

28 and

29 (vi) the person to submit to random or routine drug and alcohol testing.

30 (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in

subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

(7) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 48. Section 45-9-103, MCA, is amended to read:

"45-9-103. Criminal possession with intent to distribute. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to distribute not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 49. Section 45-9-110, MCA, is amended to read:

"45-9-110. Criminal production or manufacture of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction

1 that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be
2 imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more
3 than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for
4 criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the
5 state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except
6 as provided in 46-18-222.

7 (4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a
8 dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not
9 to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and
10 the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned
11 in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight"
12 means the weight of the dry plant and includes the leaves and stem structure but does not include the root
13 structure. A person convicted under this subsection who has a prior conviction that has become final for criminal
14 production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not
15 to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

16 (5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
17 professional practice are exempt from this section."

18
19 **Section 50.** Section 45-9-127, MCA, is amended to read:

20 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) Except as provided in ~~Title 50, chapter~~
21 ~~46 [sections 1 through 40]~~, a person commits the offense of carrying dangerous drugs on a train in this state if
22 the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

23 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
24 provided in 45-9-102."

25
26 **Section 51.** Section 45-10-103, MCA, is amended to read:

27 **"45-10-103. Criminal possession of drug paraphernalia.** Except as provided in ~~Title 50, chapter 46~~
28 ~~[sections 1 through 40]~~, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to
29 plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,
30 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body

1 a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be
2 imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A
3 person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence
4 of imprisonment."

5
6 **Section 52.** Section 45-10-107, MCA, is amended to read:

7 **"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision
8 acting in the course of a professional practice and persons in compliance with ~~Title 50, chapter 46~~ sections 1
9 through 40], are exempt from this part."

10
11 **Section 53.** Section 61-11-101, MCA, is amended to read:

12 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
13 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
14 the suspension or revocation of the driver's license or commercial driver's license of the person by the
15 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
16 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
17 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
18 indicate that fact in its report to the department.

19 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
20 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
21 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
22 the conviction becomes final. The court may recommend that the department issue a restricted probationary
23 license on the condition that the individual comply with the requirement that the person attend and complete a
24 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

25 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
26 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
27 upon which it is based to the department within 5 days on forms furnished by the department.

28 (4) A conviction becomes final for the purposes of this part upon the later of:

29 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

30 (b) forfeiture of bail that is not vacated; or

1 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
2 execution of a sentence.

3 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
4 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
5 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
6 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
7 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
8 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
9 person who holds any other type of driver's license.

10 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
11 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
12 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
13 subsection (1).

14 (6) (a) If a person who holds a valid therapeutic marijuana registry identification card or a therapeutic
15 marijuana license or registration issued pursuant to [sections 1 through 40] is convicted of or pleads guilty to any
16 offense related to driving under the influence of alcohol or drugs when the initial offense with which the person
17 was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall
18 require the person to surrender the registry identification card, license, or registration.

19 (b) Within 5 days after the conviction becomes final, the court shall forward:

20 (i) the registry identification card and a copy of the conviction to the department of public health and
21 human services; or

22 (ii) the license or registration and a copy of the conviction to the department of revenue."
23

24 **Section 54.** Section 69-1-114, MCA, is amended to read:

25 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

26 (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), ~~or~~ 69-12-423(2), or [sections 17
27 through 40], a fee set by the commission may not exceed \$500.

28 (3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the
29 special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."
30

1 **Section 55.** Section 69-1-401, MCA, is amended to read:

2 **"69-1-401. Definitions.** As used in this part, the following definitions apply:

3 (1) "Department" means the department of public service regulation provided for in Title 2, chapter 15,
4 part 26.

5 (2) (a) "Regulated companies" means all organizations, corporations, associations, or other public or
6 private entities which now are or may ~~hereafter~~ become subject to regulation in any manner by the department
7 of public service regulation, the public service commission, or any successor agency. The term does not include
8 motor carriers regulated pursuant to Title 69, chapter 12.

9 (b) The term does not include individuals, businesses, or organizations licensed by the department
10 pursuant to [sections 17 through 40]."
11

12 **NEW SECTION. Section 56. Emergency rulemaking.** The department of public health and human
13 services and the public service commission shall adopt emergency rules as provided in 2-4-303 to allow for
14 issuance of registry identification cards and processing of license applications pursuant to [sections 1 through
15 40] by June 1, 2011.
16

17 **NEW SECTION. Section 57. Transition.** (1) (a) Registry identification cards issued prior to [the
18 effective date of this act] to qualifying patients for a debilitating medical condition that did not include severe or
19 chronic pain are valid until the expiration date listed on the card.

20 (b) Registry identification cards issued to qualifying patients for a debilitating medical condition that
21 included severe or chronic pain expire on August 31, 2011. An individual who is in possession of marijuana after
22 August 31, 2011, is not protected by the provisions of Title 50, chapter 46, that were in effect on [the effective date
23 of this act] if the individual was issued a registry identification card for a condition that included severe or chronic
24 pain and has not obtained a new registry identification card pursuant to sections [1 through 40].

25 (c) The department of public health and human services shall, before August 31, 2011, reissue cards to
26 qualifying patients who obtained a card before [passage and approval of this act] and whose debilitating medical
27 condition at the time of registration did not include severe or chronic pain. The cards must be issued using a color
28 that makes them easily distinguishable from cards issued prior to [the passage and approval of this act].

29 (2) The department of public health and human services may begin issuing new registry identification
30 cards pursuant to [sections 1 through 16] on July 1, 2011. Cards issued pursuant to [sections 1 through 16] must

1 be issued using a color that makes them easily distinguishable from cards issued before [passage and approval
2 of this act] and from cards issued pursuant to subsection (2)(c).

3 (3) From July 1, 2011, to September 30, 2011, an individual with a valid registry identification card issued
4 before [the effective date of this act] or pursuant to [sections 1 through 16] may possess four mature plants, 12
5 seedlings, and 2 ounces of usable marijuana at the cardholder's residence.

6 (4) (a) The public service commission may begin processing applications for licenses for couriers,
7 personal production assistants, therapeutic marijuana growers, and therapeutic marijuana-infused product
8 manufacturers on June 1, 2011.

9 (b) Personal production assistants may begin carrying out the activities allowed under their license on
10 July 1, 2011.

11 (c) Beginning July 1, 2011, therapeutic marijuana growers and therapeutic marijuana-infused product
12 manufacturers that have been licensed by the public service commission may cultivate, manufacture, and
13 possess marijuana for therapeutic use but may not engage in any transactions with cardholders or couriers before
14 October 1, 2011.

15 (d) Couriers licensed by the state licensing authority before October 1, 2011, may not undertake the
16 activities allowed by their license until October 1, 2011.

17 (4) A caregiver who obtained a registry identification card prior to [the effective date of this act] is
18 protected by the provisions of Title 50, chapter 46, that were in effect prior to [the effective date of this act] until
19 June 30, 2011. A caregiver may not be in possession of marijuana plants, seedlings, cuttings, clones, usable
20 marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items
21 to the law enforcement agency having jurisdiction in their area. The law enforcement agency shall destroy the
22 items.

23
24 **NEW SECTION.** **Section 58. Codification instruction.** [Sections 1 through 40] are intended to be
25 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
26 1 through 40].

27
28 **COORDINATION SECTION.** **Section 59. Coordination instruction.** (1) If House Bill No. 161 is not
29 passed and approved, then [this act] is void.

1 **NEW SECTION.** **Section 60. Severability.** If a part of [this act] is invalid, all valid parts that are
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
3 the part remains in effect in all valid applications that are severable from the invalid applications.

4
5 **NEW SECTION.** **Section 61. Effective dates.** (1) Except as provided in subsections (2) through (4),
6 [this act] is effective October 1, 2011.

7 (2) [Sections 17, 18, and 25 through 29] are effective June 1, 2011.

8 (3) [Section 4] is effective July 1, 2011.

9 (4) [Section 61] is effective on passage and approval.

10 - END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2013 Biennium

Bill #	SB0423	Title:	Generally revise laws relating to use of marijuana
Primary Sponsor:	Essmann, Jeff	Status:	As Introduced

- | | | |
|---|---|---|
| ☐ Significant Local Gov Impact | ☒ Needs to be included in HB 2 | ☒ Technical Concerns |
| ☐ Included in the Executive Budget | ☒ Significant Long-Term Impacts | ☒ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
Expenditures:					
General Fund	\$270,500	\$0	\$0	\$0	\$0
State Special Revenue - PSC	\$0	\$744,589	\$521,259	\$560,244	\$542,319
State Special Revenue - DLI	\$0	\$50,000	\$50,000	\$51,000	\$52,020
State Special Revenue - PHHS	\$0	(\$150,950)	(\$152,450)	(\$152,114)	(\$151,772)
Revenue:					
General Fund	\$0	\$0	\$0	\$0	\$0
State Special Revenue - PSC	\$0	\$744,589	\$521,259	\$560,244	\$542,319
State Special Revenue - DLI	\$0	\$0	\$0	\$0	\$0
State Special Revenue - PHHS	\$0	(\$174,920)	(\$174,920)	(\$174,920)	(\$174,920)
Net Impact-General Fund Balance:	<u>(\$270,500)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

Department of Public Health and Human Services (DPHHS) - HB 423 creates a framework for therapeutic use of marijuana including the creations of an advisory board to review and make recommendations on the eligibility criteria for those applying for the therapeutic use of marijuana.

Department of Labor and Industry (DLI) - There would be costs to the Board of Medical Examiners associated with carrying out the provisions of the Montana Therapeutic Marijuana Act.

Public Service Commission (PSC) - SB 423 would revise the Medical Marijuana Act and establish the Therapeutic Marijuana Act by creating licensing and regulatory authority over couriers, personal production assistants, therapeutic marijuana growers, and therapeutic marijuana-infused products manufacturers; overseen

by the Departments of Public Service Regulation (PSC) and Public Health and Human Services. This bill creates a special revenue account and provides for a fee.

FISCAL ANALYSIS

Assumptions:

Department of Public Health and Human Services

1. This bill changes the requirements for applications by individuals for the registry, including the list of debilitating conditions to qualify as a registered cardholder, physician certification, residency requirements, and a requirement to designate the method of obtaining product through the licensing categories defined in the bill. The department will develop new application forms, design and implement system changes to the registry, and implement new administrative rules for the administration of the registry.
2. Section 3 creates a new advisory board assigned to the Department. The advisory board consists of eight members that are board certified medical practitioners representing the fields of neurology, pain management, medical oncology, psychiatry, infectious disease, family medicine, and gynecology.
3. The members of the board are entitled to a stipend as set by the Department not to exceed \$50 per day. The department will utilize the stipend of \$50 per day for board related activity and meetings.
4. Section 3, Subsection (3) requires the board to meet twice per year. It is estimated that each board member will travel a total of two days for each meeting. Total estimated stipend for board members is \$1,600 per year (\$50 x 8 board members x 2 meetings x 2 days).
5. It is estimated that travel cost per board member will be \$287 per trip including meals, hotel and mileage reimbursement. Total travel per meeting of the board is estimated to be \$2,296 (\$287 x 8), or \$4,592 per year for two meetings with 2% inflationary increases each year FY 2014-15.
6. It is assumed that minutes will need to be taken, typed and disseminated for these meetings. The estimated rate for a temporary staff to perform this task is \$14.00 per hour. It is estimated that it will take 16 hours to perform these tasks for a cost of \$224 per meeting for a total of \$448 annually with 2% inflationary increases FY2014-15.
7. New Section 6 of this bill states that “the department shall revoke and may not reissue the registry identification card of a person who is convicted of a drug offense”. The only means of determining if a person has been convicted of a drug offense is to perform a background check.
8. Currently background checks are not conducted on a registered cardholder, but are completed on named caregivers. The bill moves the responsibility to conduct background checks on caregivers, now termed as growers or manufacturers, to the State Licensing Authority (PSC). The department estimates that the existing staff currently conducting background checks on caregivers will be able to perform this function of background checks on registered cardholders.
9. The Quality Assurance Division (QAD) will conduct the required background checks using the Criminal Justice Information Network (CJIN) terminal. The department’s background check is limited to Montana and states that participate in the Western Identification Network (WIN) and are not a nationwide check.
10. The bill requires the development of administrative rules necessary for the implementation and administration. It is anticipated that the department will require 30 pages to be printed in the administrative rules.
11. The Secretary of State’s Office charges agencies \$50 per page to print and publish Administrative Rules.
12. Total estimated cost to publish and print new rules for the medical marijuana registry is estimated to be \$1,500.

13. The department is required to approve and issue an identification card within 20 days of receipt; therefore any applications the department received on or after June 10, 2011 will be reviewed and returned to the applicant if the new rules and new application materials are not provided.
14. The department will process applications currently in inventory that were received prior to June 10, 2011 to approve or deny all before June 30, 2011.
15. Applications that are processed in June that result in issuing a identification card for “Severe or Chronic Pain” will be issued for one year and will be subject to revocation on September 1, 2011. The department will not issue refunds to any registered cardholders who are subject to the revocation effective on September 1, 2011.
16. As of March 2011, there are approximately 21,700 registered cardholders with a diagnosis of only severe or chronic pain, 6,500 with a diagnosis of severe or chronic pain with another debilitating medical condition, and 1,800 with a diagnosis of a debilitating medical condition that does not also list severe or chronic pain. It is assumed that these 8,300 registry patients with other identified conditions will renew their registry cards.
17. For purposes of this fiscal note the Department will utilize the statistics from “severe and chronic pain only” category as the best measure to use for determining monthly applications with the debilitating condition of chronic or severe pain.
18. Changes will be required to the application form and the medical marijuana registry database to comply with the application information and required documentation for application.
19. The Department has no factual basis to determine the percentage of qualifying patients or applicants that will not renew or apply to be on the registry. For purposes of this fiscal note it is assumed that 75 percent of applicants will not submit to the new requirements to be on the registry. Using this assumption it is assumed that 5,425 applicants will reapply to be on the registry. ($21,700 \times .25 = 5,425$ applicants)
20. It is assumed that applicants whom will reapply to be on the registry will apply in equal amounts over a twelve month period. This equates to 452 applications each month. These will be treated as new applications.
21. From July through December 2010, approximately 2,215 applications were processed each month. New applications made up approximately 79 percent of the total applications.
22. Based on this information and assuming that 75 percent of applications will not apply under the new rules, it is assumed that there will be 438 new applications per month that includes the identification of a debilitating condition as identified in the bill. ($2,215 \text{ applications} \times .79 \times .25$).
23. Section 57 regarding transition will require the revocation of all registry identification cards for registered cardholder with a debilitating condition of severe and chronic pain. As of March 24, 2011 this is identified to impact approximately 21,700 individuals. The registry identification cards will be systematically revoked effective September 1, 2011, thus providing an effective expiration as of August 31, 2011.
24. The remaining registered cardholders will remain on the registry until their designated expiration date.
25. Currently the department issues registration cards for registered patients and caregivers that have been named by the patient. The fees associated with the registration cards are \$25 for a new application or renewal of an expired application and \$10 for a renewal application that has not expired.
26. All cards including a condition of only severe or chronic pain will be expired on August 31, 2011.
27. The bill removes the requirement for the department to issue registry identification cards to named caregivers and reduces the number of cards to be issued to qualifying patients.
28. It is estimated that there will be savings due to the elimination of costs associated with printing and mailing Medical Marijuana cards to caregivers. The department printed and mailed over 52,000 cards to registered patients and caregivers during the period July-December 2010, for an average of approximately 8,700 cards per month.
29. Under the current program, two cards are issued to patients that have named a caregiver or a change request: one to the participant and one to the participant’s caregiver.

30. Card stock for registry cards is estimated to cost \$202 per 1,000 cards.
31. Postage to mail cards and letters is approximately \$.332 per piece for presorted mail.
32. Total card production for the July-December 2010 time frame was \$27,768. Total estimated card production for one year is \$55,536 ($\$27,768 \times 2$).
33. It is estimated that that under the new guidelines in the bill, the total annual registry cards will be issued to 18,980 patients per year (10,980 severe and chronic pain + 8,300 debilitating medical condition) calculated as follows: (10,680 Severe and chronic pain applications = 452 renewals/month + 438 new applications/month $\times 12$) plus 8,300 annual debilitating medical condition cardholders new and renewal.
34. Using the estimated card production costs listed in the previous assumption, card costs under the new guidelines will be \$10,135 annually FY 2012-13 with 2% inflationary increases each year FY 2014-15 ($\$3,834$ card stock + $\$6,301$ postage) calculated as follows: (18,980 registered patients $\div 1,000$ card stock $\times \$202 = \$3,834$ total cost for card stock) plus (18,980 registered patients $\times \$.332 = \$6,301$ total cost for postage).
35. Currently the Department utilizes the services of 3.00 FTE and 3.50 temporary workers to process applications and perform criminal background checks of care givers. If this bill passes, it is assumed that the Medical Marijuana Registry will need to utilize the services of only 3.00 FTE and no temporary workers, resulting in a savings to the program of \$113,689.
36. Current program expenditures for the Medical Marijuana Registry are approximately \$460,000 annually.
37. Anticipated annual program costs after implementation of the new rules are anticipated to be \$370,000.
38. Current revenue generated by the medical marijuana registry is approximately \$48,400 per month or \$580,800 per year calculated as follows: (2,215 applications per month $\times 79$ percent = 1,750 new applications), (1,750 $\times \$25 = \$43,750$ new applications) plus (465 $\times \$10 = \$4,650$ renewal applications.)
39. If application fees were to remain as currently charged, anticipated revenue collection under the rules identified in this bill will not be sufficient to cover anticipated program costs. This decrease in revenues will result in the program having to readjust fees charged for the application or annual renewal of cards. New fees are estimated to be \$25 per new application, \$20 for renewal applications. Total new revenue collections are estimated to be \$405,880 per year including the following: (438 new applications per month $\times 12$ months $\times \$25 = \$131,400$) plus (452 severe and chronic pain renewals $\times 12$ months $\times \$20 = \$108,480$) plus (692 other debilitating conditions renewals $\times 12$ months $\times \$20 = \$166,000$).
40. Enhancements and updates to the Medical Marijuana Registry database will be required as a result of this bill. Enhancements include, a record proof documentation receipt for pain condition, verify and track Montana residency, capture statements on patient's intent on cultivation, maintain information on parents/legal guardians of minors, track background checks, change timeframe storage requirements, manage transition period, create and manage interfaces with PSC for data exchange.
41. It is estimated that this work will take approximately 2,230 programmer hours to identify requirements, design, code, and test and implement these changes.
42. It is estimated that 75 percent of the work will utilize contracted staff at a cost of \$85.00 per hour. Total estimated cost to hire the external contractor required to implement these changes is \$142,163 (2,230 hours $\times .75 \times \$85.00$).
43. The remaining 25 percent of the programming work will utilize internal staff programmers that will be paid from existing budget.
44. Total fiscal impact of SB 423 for PHHS is shown in the following chart:

Fiscal Impact SB 423				
	2012	2013	2014	2015
Personal Services				
Board Meeting Temporary Employee	\$448	\$448	\$457	\$466
FTE/Temporary Services Reduction	(\$113,689)	(\$113,689)	(\$113,689)	(\$113,689)
<i>Total Personal Services</i>	<i>(\$113,241)</i>	<i>(\$113,241)</i>	<i>(\$113,232)</i>	<i>(\$113,223)</i>
Operations				
Administrative Rules Publishing	\$1,500			
Board Meeting Stipend	\$1,600	\$1,600	\$1,632	\$1,665
Board Meeting Travel	\$4,592	\$4,592	\$4,684	\$4,778
Card Savings Old System	(\$55,536)	(\$55,536)	(\$55,536)	(\$55,536)
Card Issuance SB 423	\$10,135	\$10,135	\$10,338	\$10,544
<i>Total Operations</i>	<i>(\$37,709)</i>	<i>(\$39,209)</i>	<i>(\$38,882)</i>	<i>(\$38,549)</i>
Total Expenses SB 423	(\$150,950)	(\$152,450)	(\$152,115)	(\$151,772)
Revenue Generated Old System	(\$580,800)	(\$580,800)	(\$580,800)	(\$580,800)
Revenue Generated SB 423	\$405,880	\$405,880	\$405,880	\$405,880
Revenue Difference SB 423	(\$174,920)	(\$174,920)	(\$174,920)	(\$174,920)

Department of Labor and Industry

45. This legislation, under New Section 5 (4) requires the Board of Medical Examiners to review the practices of any physician who provides written certification for therapeutic marijuana to 25 or more patients within a twelve month period. The Board of Medical Examiners is charged with determining whether the physicians have met the standard of care in prescribing marijuana to a patient.
46. It is estimated that the board will review the practices of at least fifty physicians per year and will conduct a peer review of the cases involved. It is assumed these reviews will take place before the full board and the board will utilize the division's contracted peer review services to conduct the case file reviews.
47. Based on the past costs of utilizing a peer review service, it is estimated that the review for each physician will cost an average of \$1,000 to review up to fifteen case files.
48. Total estimated cost to the Board of Medical Examiners is \$50,000 (fifty physicians x \$1,000 peer review annually).
49. An inflationary factor of 2% has been added to FY 2014 and FY 2015.

Public Service Commission

50. Therapeutic marijuana may be cultivated or manufactured by: (1) a registered cardholder for his/her personal use; (2) a grower; or (3) a marijuana products manufacturer that also has a grower license.
51. A registered cardholder may not get therapeutic marijuana directly from a licensed grower or manufacturer; rather, the marijuana will be delivered by PSC-licensed couriers. The PSC must establish by rule a process for providing information to cardholders who intend to receive therapeutic marijuana from a licensed grower or product manufacturer.
52. The bill assumes a decrease in cardholders from approximately 30,000 to approximately 2,000. This fiscal note mirrors that assumption, although the PSC feels the assumption of such a large reduction in cardholders may not materialize. Should it not, the PSC would expect costs to rise concomitantly with the number of cardholders.
53. The PSC's operational costs (including but not limited to costs for licensing, inspections, investigations, hotline operation) for this program must be funded by fees paid by licensees and registrations.
54. The PSC must adopt emergency rules by June 1, 2011, regarding licensing, and may begin processing license applications on June 1. Licensees may begin operations October 1, 2011.

55. The PSC must adopt rules regarding: use of a courier to transport and deliver therapeutic marijuana; the manner in which licensees will ensure that therapeutic marijuana is provided only to cardholders; and procedures for licensees to follow if the licensee believes someone is using a fake ID card.
56. Licensing and registration procedures must include fingerprint and criminal history background check by DOJ and FBI.
57. The PSC must require complete disclosure of anyone having direct or indirect financial interest in each license issued. The law provides for PSC inspections. The PSC may require audits to be conducted by an outside auditor selected by PSC and paid for by the licensee.
58. The PSC must set up a hotline to receive reports of suspected abuse of this law. PSC may investigate such reports or refer them to the appropriate law enforcement agency.
59. The additional workload will require the addition of 5.00 FTE Regulatory Staff (\$336,384 salary and benefits each year), 1.00 FTE Attorney (\$98,290.69 salary and benefits each year), and 1 FTE Hotline Compliance Specialist (\$49,868.80 salary and benefits each year), \$21,400 for office packages and computers in FY 2012, and \$5,070 in each year of the biennium for phones, hotline phones and supplies.
60. Specialized training in FY 2012 will cost approximately \$2,000 for each FTE and travel to training facility \$1,500 for each FTE for a total of \$24,500.
61. Annual travel for inspections will cost \$15,000 and attorney travel will cost \$2,000 in each year of the biennium.
62. Annual travel for 5 Commissioners and 2 staff to attend hearings will cost \$11,146.32 in each year of the biennium (8 hearings at \$1,393.29 each).
63. ID cards are estimated to cost \$28,000 in FY 2012 and \$28,560 in 2014 (700 cards at \$40 each, adjusted by 2% inflation in FY 2014).
64. Fingerprint and background checks will cost \$3,000 in each year of the biennium, including FY 2011.
65. Changes to the licensing database (PSC ITS) to include therapeutic marijuana licensees is estimated at \$150,000 each year in FY 2011 and FY 2012.
66. Contracted attorney fees to meet the June 1, 2011 deadline are estimated at \$60,000 (400 hours at \$150 per hour) in FY 2011.
67. A consultant to assist with emergency rules related to security, sanitary, and labeling requirements is estimated at \$52,500 (350 hours at \$150 per hour) in FY 2011.
68. The costs of the PSC emergency rulemaking are estimated to be \$5,000 (100 total pages published in the Administrative Register at \$50 per page) in FY 2011. Rulemaking costs are estimated at \$5,000 (100 total pages at \$50 per page) in FY 2012 and \$500 in later years (10 pages at \$50 per page).
69. There are estimated to be \$270,500 in unfunded costs that would be incurred in FY 2011. These expenditures are assumed to be funded with general fund.
70. There is a 2% per year inflation factor applied to personal services and operating expenses in FY 2014 and FY 2015.

	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
<u>Fiscal Impact: Department of Health and Human Services</u>				
FTE	(0.50)	(0.50)	(0.50)	(0.50)
<u>Expenditures:</u>				
Personal Services	(\$113,241)	(\$113,241)	(\$113,232)	(\$113,223)
Operating Expenses	<u>(\$37,709)</u>	<u>(\$39,209)</u>	<u>(\$38,882)</u>	<u>(\$38,549)</u>
TOTAL Expenditures	<u><u>(\$150,950)</u></u>	<u><u>(\$152,450)</u></u>	<u><u>(\$152,114)</u></u>	<u><u>(\$151,772)</u></u>
<u>Funding of Expenditures:</u>				
State Special Revenue (02)	<u>(\$150,950)</u>	<u>(\$152,450)</u>	<u>(\$152,114)</u>	<u>(\$151,772)</u>
TOTAL Funding of Exp.	<u><u>(\$150,950)</u></u>	<u><u>(\$152,450)</u></u>	<u><u>(\$152,114)</u></u>	<u><u>(\$151,772)</u></u>
<u>Revenues:</u>				
State Special Revenue (02)	<u>(\$174,920)</u>	<u>(\$174,920)</u>	<u>(\$174,920)</u>	<u>(\$174,920)</u>
TOTAL Revenues	<u><u>(\$174,920)</u></u>	<u><u>(\$174,920)</u></u>	<u><u>(\$174,920)</u></u>	<u><u>(\$174,920)</u></u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
State Special Revenue (02)	(\$23,970)	(\$22,470)	(\$22,806)	(\$23,148)

	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
<u>Fiscal Impact: Department of Labor and Industry</u>				
<u>Expenditures:</u>				
Operating Expenses	<u>\$50,000</u>	<u>\$50,000</u>	<u>\$51,000</u>	<u>\$52,020</u>
TOTAL Expenditures	<u><u>\$50,000</u></u>	<u><u>\$50,000</u></u>	<u><u>\$51,000</u></u>	<u><u>\$52,020</u></u>
<u>Funding of Expenditures:</u>				
State Special Revenue (02)	<u>\$50,000</u>	<u>\$50,000</u>	<u>\$51,000</u>	<u>\$52,020</u>
TOTAL Funding of Exp.	<u><u>\$50,000</u></u>	<u><u>\$50,000</u></u>	<u><u>\$51,000</u></u>	<u><u>\$52,020</u></u>
<u>Revenues:</u>				
State Special Revenue (02)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
State Special Revenue (02)	(\$50,000)	(\$50,000)	(\$51,000)	(\$52,020)

	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
<u>Fiscal Impact: PSC</u>					
FTE	0.00	7.00	7.00	7.00	7.00
<u>Expenditures:</u>					
Personal Services	\$0	\$484,543	\$484,543	\$494,234	\$504,120
Operating Expenses	\$270,500	\$238,646	\$36,716	\$66,010	\$38,199
Equipment	\$0	\$21,400	\$0	\$0	\$0
TOTAL Expenditures	\$270,500	\$744,589	\$521,259	\$560,244	\$542,319
<u>Funding of Expenditures:</u>					
General Fund (01)	\$270,500	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$744,589	\$521,259	\$560,244	\$542,319
TOTAL Funding of Exp	\$270,500	\$744,589	\$521,259	\$560,244	\$542,319
<u>Revenues:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$744,589	\$521,259	\$560,244	\$542,319
TOTAL Revenues	\$0	\$744,589	\$521,259	\$560,244	\$542,319
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>					
General Fund (01)	(\$270,500)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0	\$0

Long-Term Impacts:

1. The addition of a newly regulated industry to the Department of Public Service Regulation is likely to have long-term economic impacts. The therapeutic marijuana industry has grown in Montana, as well as other states. It will be necessary to adjust fees accordingly, to accurately cover costs to the state.

Technical Notes:**Department of Public Health and Human Services**

1. Section 4 (2)(b) will require the qualifying patient to submit “objective proof” of the chronic pain established by the results of diagnostic tests, including but not limited to x-rays, a computerized tomography scan, or magnetic resonance imaging. This information is considered protected health information as it contains specific medical information, which will be subject to the privacy and security standards of HIPAA (Health Insurance Portability and Accountability Act). The department will not perform a review of these documents to determine the validity of the information or to confirm medically the information supports the certification of the debilitating condition of severe and chronic pain. That determination will be confirmed by the physician certification as completed by the physician and the referring physician. The department will file the information with the other application materials and include the cost of storage with existing storage costs already incurred by the department.
2. Section 6 will require the department to conduct background checks on all registered cardholders applying for renewal on the registry. This section as currently worded will not require background checks on new applicants as a qualifying patient for the registry. The language clearly indicates the department shall revoke and may not reissue the registry identification card of a person who “is convicted of a drug

- offense”. Clarification is needed regarding this requirement as to why new applicants are not subject to the same background check. In addition, clarification is needed regarding the application of the \$10,000 fine and if that would be assessed on department staff if an identification card was issued due to failure to confirm the drug offense. The title of section 6 would indicate the fine would be assessed on the cardholder but the language in subsection (2) merely indicates a violation.
3. Section 11, Page 14, line 10 indicates that the department can disclose information to “authorized employees of state or local government agencies”, only as necessary to verify that an individual is a lawful possessor of a registry identification card. The bill does not define nor specifically define who are authorized employees of a state or local government. Currently the confidentiality requirements of the law provide exceptions for authorized employees of state to local law enforcement agencies, only as necessary verify that a person is a lawful possessor of a registry identification card. Law enforcement personnel are easily identified and verified prior to releasing information for verification. Employees of state and local government agencies are not easily verified. This generic definition subjects department staff and staff of the State Licensing Agency to increased risk of breaching the confidentiality of the registry. Clarification is needed to limit personnel of state and local government agencies or allow the department or the State Licensing Agency to define personnel by rule.
 4. This bill removes the designation of Caregiver and replaces with the identification of obtaining product through a Personal Production Assistant, grower, or therapeutic infused product manufacturer. If an individual selects a grower or therapeutic infused product manufacturer, they are not required to pick only one licensed provider, but appear to be allowed to utilize any licensed provider to obtain product. This creates the potential for the registered cardholder to use services of two independent licensees and exceed the limits identified in Section 10.
 5. Section 23 regarding Personal Production Assistants (PPA) require a limit of 4 registered cardholders. Registered cardholders can change licensee (PPA, grower or therapeutic infused product manufacturer) at any time. Those changes may result in more than 4 cardholders at any one time for a PPA if a registered cardholder names the PPA, and that PPA already has 4 cardholders, thus resulting in the count of registered cardholders to exceed 4.
 6. Section 57 regarding transition will require the revocation of all registry identification cards for registered cardholder with a debilitating condition that included severe or chronic pain. The department notes that some registered cardholders have reported multiple debilitating conditions on an application. Some of those indicate “Cancer, Glaucoma or HIV (AIDS)” and “Severe or Chronic Pain”, or other combinations of a debilitating condition indicated in the act and also indicate a debilitating condition of “Severe or Chronic Pain”. For purposes of this fiscal note the department has interpreted that if a patient has another qualifying debilitating condition on the application, the registered cardholder’s enrollment will not be revoked on 9/1/2011. The department will revoke registry identification cards if only one debilitating condition is indicated that includes the indication of “Severe or Chronic Pain”. Those registry identification cards will be systematically revoked effective September 1, 2011, thus providing an effective expiration as of August 31, 2011.
 7. Section 57 regarding transition will require the revocation of all registry identification cards for registered cardholder with a debilitating condition that included severe or chronic pain. The provision in subsection (1)(c) requires the department to reissue identification cards to qualifying patients who obtained a card before passage and approval of the bill whose debilitating condition at the time of registration did not include severe or chronic pain. The department notes that this requirement is not considered necessary as the registry database has the ability to maintain information regarding the status of enrollments of registered cardholders. This information is available to state and local law enforcement and as of March 24, 2011 this information is available to law enforcement electronically through the Department of Justice, Criminal Justice Information Network (CJIN).
 8. Section 56 of the bill requires the Department to adopt emergency rules as provided in §2-4-303, MCA, to allow implementation of the new requirements by June 1, 2011. A 1988 Attorney General opinion, 42 A.G.

Op. 62, held that the use of emergency rules is not proper in a situation where the emergency requiring emergency rulemaking was foreseeable. It could be argued that an emergency as contemplated in §2-4-303 does not exist with this bill because the emergency was foreseeable. Conversely, it could be argued that the Legislature has authority to override the requirements of §2-4-303 by specifically mandating the adoption of emergency rules, based on the principle that a more specific statute prevails over a more general one.

9. New section 9 provides an exception for hospices to allow the use of therapeutic marijuana, but other facilities licensed as a healthcare facility under 50-5-101 are not allowed to permit the use of therapeutic marijuana. The department interprets this hospice language will apply to licensed freestanding inpatient hospice facilities. There are 3 licensed in-patient hospice facilities with 27 beds available in Montana (7 beds in Great fall, 12 beds in Billings and 6 beds in Hamilton). There are 36 licensed Hospice programs that can only serve the hospice patient in the patient's home, an adult foster home, an assisted living facility, a nursing home, or a hospital. If an individual is provided a registry identification card as a qualified patient for a debilitation condition (Hospice) under the definition in Section 2, it should be noted that they will not be able to use therapeutic marijuana in a licensed facility that is not a freestanding inpatient hospice facility.
10. Revenue projections based on the current rate structure will not be sufficient to support the expected future costs of the program. If necessary, a change in rate structure may be implemented to support ongoing program expenditures.

Public Service Commission

11. The PSC will incur costs in FY 2011 (see PSC assumptions) of approximately \$270,500 in order to meet bill deadlines of June 1, 2011. Funding for these costs will need to occur prior to licensing revenue being billed or received.
12. Significant cash flow concerns in the state special revenue account arise where Section 40 states that the funds remaining in the account at the end of the fiscal year must be transferred to the general fund. With the renewal cycle every two years, and operation budget set for 2 years, this may be problematic.
13. The PSC is concerned that licensing couriers to transport marijuana is not lawful under federal statute 49 USC §14501(c), which pre-empts states' ability to regulate carriers of property. A determination to this effect would render the retail aspect of this bill moot and prevent large numbers of cardholders from receiving marijuana through a courier service as contemplated in this bill. Nonetheless, this note assumes this provision of the bill would be lawful.

Sponsor's Initials

Date

Budget Director's Initials

Date



Dedication of Revenue 2013 Biennium

17-1-507-509, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

The bill indicates the state special revenue account is to cover the expenses of the state licensing authority and these must be fully funded by fees paid. Money remaining in the account must be transferred to the general fund so it is possible others could benefit if revenue exceeds cost. Fees will be established by the department, and all who benefit should pay a fee.

- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

The bill is intended to be self-sustaining so a state special revenue fund was established. The cost of the program is to be paid by those benefiting from the program.

- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**

This bill creates a new state licensing authority for therapeutic marijuana. The costs of the state licensing authority are to be fully compensated from fees established by the Department of Public Service Regulation.

- d) **Does the need for this state special revenue provision still exist? ☒ Yes ☐ No (Explain)**

Section 40 of the bill creates the state special revenue account for the purpose of funding the state licensing authority.

- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**

It should not. The legislature would still have that ability with the state special revenue account.

- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**

This bill creates a new program to license, administer, and govern the supply and sale of therapeutic marijuana. Since medical marijuana was recently approved by the voters, there appears to be a continuing need if this legislation passes. If so it would indicate the legislature recognizes and approves the need.

- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**

If the program/activity were general funded, the department could still adequately account for the program/activity, if it is deemed necessary to account for it separately.

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Terry Murphy, on March 25, 2011 at 8:00 A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Terry Murphy, Chair (R)
Sen. Jim Shockley, Vice Chair (R)
Sen. Shannon Augare (D)
Sen. Anders Blewett (D)
Sen. Jeff Essmann (R)
Sen. Greg Hinkle (R)
Sen. Rowlie Hutton (R)
Sen. Larry Jent (D)
Sen. Cliff Larsen (D)
Sen. Lynda Moss (D)
Sen. Chas Vincent (R)

Members Excused: Sen. Jim Peterson (R)

Members Absent: None

Staff Present: Valencia Lane, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 423, 3/23/2011

HEARING ON SB 423

Opening Statement by Sponsor:

00:02:39 Sen. Jeff Essmann (R), SD 28, opened the hearing on SB 423, Generally revise laws relating to use of marijuana.

EXHIBIT(jus67a01)

Proponents' Testimony:

00:38:26 Rep. Diane Sands, HD 95, Missoula, Montana, also, Chairman, Interim Committee on Children and Family Health Services
00:44:48 Lewis Smith, Powell County Attorney, Deer Lodge, Montana
00:46:22 Rebecca Sturdevant, Mothers Against Drunk Driving (MADD)
00:47:11 Candace Payne, Rimrock Foundation, Billings, Montana
00:50:31 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)
00:55:42 Mark Murphy, Montana County Attorneys Association (MCAA), Montana Chiefs of Police (MCOP), Montana Police Protective Association (MPPA)
00:59:19 Ali Bovington, Assistant Attorney General, Department of Justice (DOJ), State of Montana
01:02:38 Rep. Trudi Schmidt, HD 22, Great Falls, Montana, also, member, Interim Committee on Child and Family Services
01:03:58 Erin MacLean, Montana Medical Association (MMA)
01:09:35 Mike Foster, Catholic Hospitals of Montana
01:10:26 Aimee Gromljev, Billings Clinic, Billings, Montana
01:12:07 Pat Keim, Columbia Grain Incorporated
01:14:02 Mark Long, Montana Narcotics Officers Association (MNOA)
01:14:45 Jon Bennion, Montana Chamber of Commerce (MCC)
01:18:02 Bob Faw, self, Big Timber, Montana
01:20:39 Tom Daubert, Patients and Families United (PFU)
01:22:30 Sen. Vincent
01:22:39 Mr. Daubert

EXHIBIT(jus67a02)

01:24:41 William Hund, Happy Farmers Caregivers, Butte, Montana
01:26:31 Jock Williams, Anaconda, Montana

EXHIBIT(jus67a03)

Opponents' Testimony:

01:30:52 Tayln Lang, self
01:37:42 Bill Gallagher, Chairman, Public Service Commission (PSC), State of Montana

EXHIBIT(jus67a04)

01:44:16 Kate Cholewa, Alliance for Cannabis Science
01:48:16 Susan Smith, Safe Communities Safe Kids, Billings, Montana
01:53:09 Laura Needham, Co-chair, Safe Communities Safe Kids, Billings, Montana
01:55:17 Barbi McLaws, Safe Communities Safe Kids, Billings, Montana
01:57:01 Barb Trego, self
01:59:29 Tawnya LaFond, The Patch Caregivers
02:00:36 Travis Greene, Lionheart Caregivers, Butte, Montana

02:02:53 Brendan McQuillan, Attorney
 02:08:19 John Masterson, Director, Montana Chapter, National Organization for the
 Reform of Marijuana Laws (NORML)
 02:10:47 Chairman Murphy
 02:10:51 Mr. Masterson
 02:12:47 Misty Kerry, Mary Jane's Kitchen, Bozeman, Montana
 02:17:24 Rose Habib, CannabAnalysis Laboratory, Missoula, Montana
 02:20:31 John Schnabel, Butte, Montana
 02:23:23 Cherrie Brady, Billings, Montana
 02:28:05 Sandi Lane, self, caregiver, Plains, Montana
 02:30:42 James Kingery, Executive Director, Montana Medical Growers Association
 (MMGA)
 02:38:44 Brendan Olsen, self
 02:40:28 David Max, caregiver, Missoula, Montana
 02:47:02 Anthony Smith, self, Gallatin County
 02:49:50 Bo Stuart, Pastor, Covenant Community Church, Whitehall, Montana
 02:51:58 Jeff Laszloffy, Montana Family Foundation (MFF)
 02:53:40 Jenna Wilkins, Green Heart Caregivers, Missoula, Montana

Informational Testimony:

02:56:46 Carole Erickson, Montana Board of Medical Examiners
EXHIBIT(jus67a05)

Questions from Committee Members and Responses:

02:58:26 Sen. Jent
 02:59:07 Sen. Essmann
 02:59:54 Sen. Shockley
 03:01:03 Ms. Brady
 03:02:50 Sen. Shockley
 03:03:05 Mr. Murphy
 03:05:00 Sen. Shockley
 03:05:32 Mr. McQuillan
 03:08:25 Sen. Moss
 03:09:16 Sen. Essmann
 03:12:56 Sen. Hinkle
 03:13:30 Sen. Essmann
 03:14:44 Sen. Hinkle
 03:15:02 Mr. Gallagher
 03:15:41 Sen. Blewett
 03:16:30 Mr. Gallagher
 03:16:47 Jim Paine, Attorney, PSC
 03:19:56 Valencia Lane, Legislative Services Division (LSD)
 03:20:40 Sen. Blewett
 03:21:00 Mr. Paine
 03:22:12 Sen. Larsen
 03:22:52 Mr. Paine
 03:23:20 Sen. Larsen
 03:23:54 Sen. Essmann

03:28:31 Sen. Murphy
03:29:29 Brad Molnar, Commissioner, PSC

Closing by Sponsor:

03:32:52 Sen. Essmann

EXHIBIT(jus67a06)

Letter from Gail Gutsche, Commissioner, PSC in opposition to SB 423

ADJOURNMENT

Adjournment: 11:39 A.M.

Pam Schindler, Secretary

ps

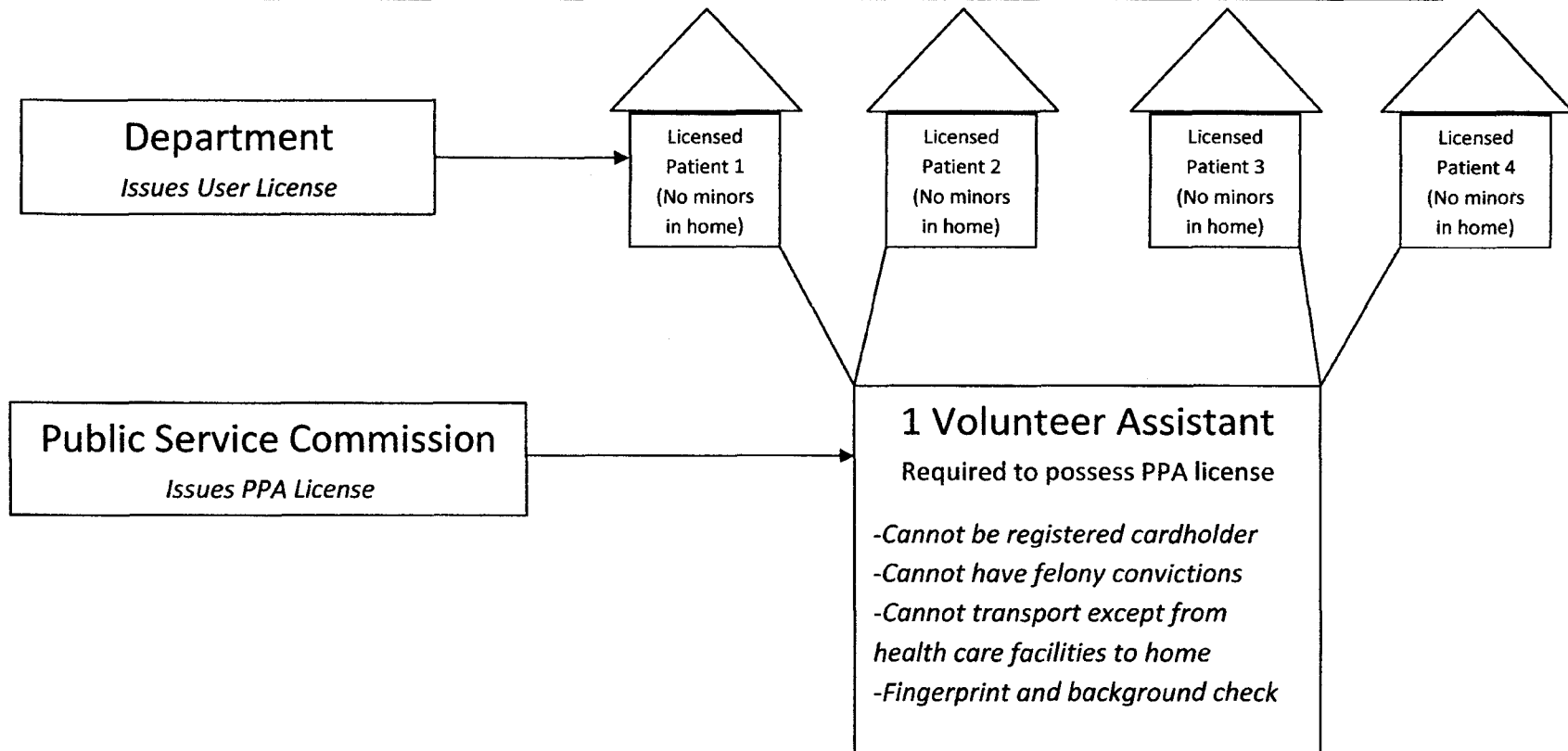
Additional Documents:

EXHIBIT([jus67aad.pdf](#))

EXHIBIT 1
DATE 3/23/11
SB 423

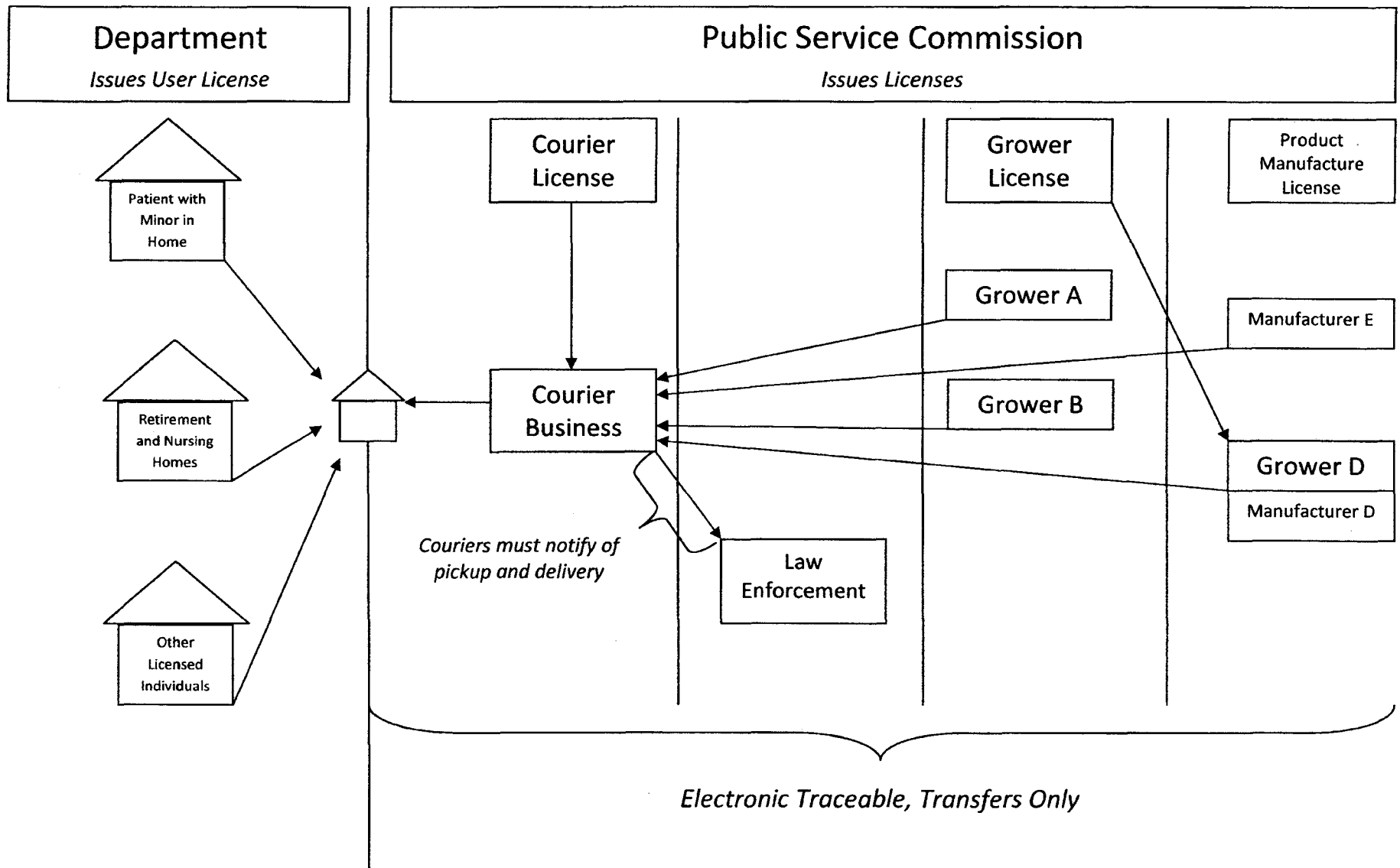
SB 423 – Montana Therapeutic Marijuana Act

PLAN A - Home Grown with Assistance



SB 423 – Montana Therapeutic Marijuana Act

PLAN B - Obtain from licensed producers



SB 423 Therapeutic Marijuana

	Passage and Approval	1-Jun	1-Jul	1-Aug	1-Sep	1-Oct
	 No new cards may be issued.	Starting June 1, existing cards expire on their anniversary of issuance date. Renewal is subject to meeting new regulations.	Old Medical Marijuana law repealed, storefronts close, growers close, manufacturers close		All remaining severe and chronic pain cards which have not yet been renewed expire.	New licensing system for growers, manufacturers, and couriers begins.
Existing cards - Other		Reissue starts				
Existing Cards - Pain						
New Cards - Pain		Application starts				
Current Law			Repeal			
Storefronts						
Manufacturers						
Growers						
Couriers						

REPORT 2
DATE 3/25/11
SB 423

SB 423

Testimony Outline of Tom Daubert, PATIENTS & FAMILIES UNITED March 25, 2011

I commend the Senate subcommittee for its hard work, and despite all its extremely serious flaws and probable unworkability, I support SB 423 because it appears to be the only remaining vehicle for preventing outright repeal and maintaining a medical cannabis program of some sort - however feeble, crippled, unfair and in many respects embarrassing to the state and contradictory to voter intent it may be.

I have gotten to know as close friends many patients suffering widely divergent medical conditions, including chronic pain with varied causes, and I have witnessed many times how greatly cannabis allows these patients to lead better, more productive lives. In my view, it is better for Montana to end up with a policy that allows even one such patient to receive this comfort than none.

Unfortunately, I think SB 243 will cause a great deal of unnecessary suffering, making it difficult for many legitimate patients to have reliable access to the cannabis that helps them more -- and costs less -- than narcotics for which these patients no longer have prescriptions.

The bill's goals appear to be to make cannabis available to as small a number of Montanans as possible, without real regard for medical needs and benefits, and with little regard for what trained physicians acting in full accordance with standards of practice think, and to make the existence of the program as invisible as possible. The goals of true medical legitimacy, and of ensuring a well regulated and monitored but workable service to patients, seem to be ignored.

It's a tragedy for many truly worthy patients that this appears to be the final track the Legislature will take. The law needs improving, but its problems could have been fixed and the abuses could have been ended in ways that would well serve patients rather than punish many of them instead.

I question the workability of this bill on a number of different fronts. Yesterday, I asked the Board of Medical Examiners a series of simple questions that the Board -- I hope -- will have the time to discuss and answer before another hearing on SB 423 is held. My questions to the Board were as follows:

Do you think the bill's requirements for physicians generally and for chronic pain patients in particular are:

- * workable
- * practical in today's healthcare environment
- * feasible for patients on Medicare and the like
- * fair to patients and physicians

- * outside the norm of standards of practice for other issues/medications
- * necessary to ensure medically legitimate mmj recommendations for patients

I was told by the Board of Medical Examiners that these are very good questions, but that the Board hasn't had time to evaluate them yet.

My guess is that SB 423 envisions processes and procedures for chronic pain patients that simply do not fit in the real world of how healthcare is presently delivered and paid for in Montana, and that for the vast majority of genuine, legitimate pain patients, including veterans, it simply will not be possible for the bill's stiff prequalification requirements to be met. If so, that will be a tragedy for a great many suffering Montanans who deserve far better from legislators who themselves don't possess licenses to practice medicine.

It's been said quite often that Montana voters didn't vote for the situation that has evolved over the last 18 months – and I have agreed. But they didn't vote for arcane, government intrusion on the professional judgments of physicians either, and they didn't vote for a system that could well make it impossible for the most medically legitimate patient to have reliable access to affordable medical-grade cannabis.

Meanwhile, I think it's important to note that no one objected to the way our current law was working until one person launched flashy so-called clinics that exploited the law's gray areas and that also pretty directly defied its requirements for physician recommendations. But in large measure, thanks to recent policies adopted by the Board of Medical Examiners, those shoddy and unacceptable practices have been ended already; my understanding is that many of the people who received "cards" via those clinics are now finding themselves unable to renew – and that is how it should be. There are constructive ways to further ensure that all physician recommendations are legitimate, without punishing pain patients and imposing a process that can't be implemented fairly in the real world.

I regret that the Legislature apparently has rejected less hastily developed proposals to "fix" Montana's medical marijuana law which enjoy far greater support than this bill – truly bipartisan proposals that have been supported by all the state's law enforcement groups and agencies, by local governments, and by a great many patients and growers as well.

But if SB 423 is the only remaining vehicle to help and to protect even a single patient, as I have said, I will support it in spite of the great sadness in my heart at the knowledge of how many patients this overly punitive approach will leave behind, and how much Montana creativity and innovation in the production of cannabis-based products this bill will stifle completely.

Several final suggestions I feel compelled to make. First, this bill cries out for a Fiscal Note based on a thorough assessment of how its provisions would fit in today's healthcare

environment in Montana and of the many seeming new responsibilities it would create for law enforcement agencies both local and statewide.

Second, I implore you to amend this bill to allow people on probation to qualify as patients when they suffer life-threatening medical conditions for which cannabis is documented to be invaluable. I know one such patient, and I urge you to assume no moral responsibility for his demise.

Third, I know there has been some discussion about banning patient eligibility for minors, without regard to their medical need. I think this would be a serious mistake. I am among those who agree that research strongly indicates cannabis poses unacceptable risks to young people whose brains haven't yet fully formed. But keep in mind that where the very few legitimate minor patients are concerned, we are generally talking about people who are likely not to live long enough for their brains to evolve fully – they have end of life conditions and conditions involving extraordinary suffering. These young people, and their parents, working with their physicians, deserve the freedom to do what they think best for themselves.

That's what voters, in my mind, DID vote for – for people suffering various medical conditions to have the freedom to use cannabis without fear; and for Montanans to work together, constructively and productively, to allow their needs and freedom to be fulfilled.

Doctor-Recommendation Requirements

As introduced, SB 423 would likely obstruct most pain patients without regard to their medical legitimacy and need. In particular, it would likely close the door to all VA-connected patients, despite the fact that the federal agency now respects and honors a vet's right to use cannabis for legitimate medical purposes.

Ban on Probationers

Probationers with life-threatening conditions should remain eligible on some reasonable basis, with strict supervision, to be legal patients.

Ban on Out-of-State Patients, Reciprocity for Legal Patients Visiting Montana

People with cancer, multiple sclerosis and numerous other conditions sometimes travel, particularly to visit loved ones when they know they are dying. Such visitors to Montana shouldn't have to fear arrest and prosecution when they are legitimate patients from other states, or when they have come to Montana to receive specialized medical care.

Transition Issues

As written, the bill would allow many patients to remain legal – but would close the door to any production of cannabis for a period of many months, leaving these patients unable to provide for themselves and yet also without the prescriptions for alternative medicines that have proven less helpful.

Ban on “Stores” or Dispensing Locations

This would appear counter-productive, a possible invitation for “black market” activities rather than above-board processes. While some patients have no desire to be seen entering a “store,” others prefer having the ability to acquire cannabis in a process that allows full inspection of available choices. There are ways to allow dispensing facilities while also ensuring no intrusion on local community values.

“Courier” Problems

The requirement that a courier contact local law enforcement for each delivery, naming the patients involved, would violate ordinary confidentiality expectations and rights – and possibly create an undue and unfunded burden on law enforcement.

Montana State Legislature

2011 Session

Exhibit 3

**This exhibit is a booklet
which can not be scanned,
therefore only the front
cover/table of content
have been scanned
to aid in your research.**

**The original exhibits are on file at the
Montana Historical Society and may be
viewed there.**

**Montana Historical
Society Archives
225 N. Roberts
Helena MT 59620-1201
2011 Legislative Scanner Susie Hamilton**

"An important contribution to
the marijuana and drug policy literature."

—Journal of the American Medical Association

MARIJUANA MYTHS

MARIJUANA FACTS

DOC# 3
DATE 3/25/11
56423

a review

of the

scientific

evidence

Agon Zinner, Ph.D.

John P. Morgan, M.D.

Contents

Foreword / ix
Acknowledgements / xiii
Introduction / 1
1. Marijuana and Science / 7
2. Marijuana as a Medicine / 17
3. Marijuana and Addiction / 27
4. Marijuana, Hard Drugs and the Gateway Theory / 33
5. Marijuana Law and Punishment / 39
6. Dutch Marijuana Policy / 49
7. Marijuana and the Brain / 57
8. Marijuana, Motivation and Performance / 63
9. Marijuana, Memory and Cognition / 71
10. Marijuana, Psychology and Insanity / 81
11. Marijuana, Deviance and Crime / 89
12. Marijuana, Sex Hormones and Reproduction / 93
13. Marijuana Use During Pregnancy / 99
14. Marijuana and the Immune System / 107
15. Marijuana Smoking and the Lungs / 113
16. Marijuana's Persistence in the Body / 119
17. Marijuana and Highway Safety / 125
18. Marijuana-Related Hospital Emergencies / 131
19. The Potency of Marijuana / 135
20. Preventing Marijuana Use / 143
Conclusion: Science, Politics and Policy / 151
References / 165
Index / 235

"A remarkable book....a miracle of intelligent concision....Legislators who write marijuana laws and judges who sentence marijuana users should....consult this little book."

--William F. Buckley, Jr., *National Review*

"An impressive attack on much of the mythology around marijuana."

--Michael Farrell, M.D., *British Medical Journal*

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--*Esquire Magazine*

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--Jann Wenner, *Rolling Stone Magazine*

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Foreword by
Mark F. Phillips

EX-114
DATE 3/25/11
58423

Testimony on behalf of Public Service Commission
Bill Gallagher, Chairman (phone 444-6169)
In opposition of Senate Bill 423
March 25, 2011

Mr. Chairman and Members of the Committee,

The Public Service Commission voted 5 to 0 to oppose Senate Bill 423. The reason expressed by a majority of commissioners for its opposition is that the PSC is not the appropriate agency to assume the role of the state licensing authority. The Commission has a full plate of utility regulatory issues with numerous important cases either before us now or expected in the near future. Adding the role of state licensing authority as contemplated under this bill would distract the agency from its core mission. But if the legislature determines, despite our opposition, that the PSC is the appropriate agency, we have identified the following concerns with the bill as written:

- The courier delivery system is problematic. States are preempted by federal law from regulating motor carriers of property. If therapeutic marijuana is property under the eyes of the federal government, we cannot regulate the transportation of therapeutic marijuana.
- The bill lacks specific standards for granting licenses, such as need. We suggest it might be possible to pattern the grants of licenses after the certification process we use for motor carriers.
- The uncertainties surrounding the number of registered cardholders who will remain and be added once the bill takes effect makes it impossible to estimate with any accuracy what the PSC's costs would be for administering the licensing authority responsibilities.
- PSC funding during ramp-up of the program is a concern, especially since it would not be appropriate for utility ratepayers, from whom regulated utilities recover their PSC funding fees, to foot the bill for any part of this new program. Moreover, if program fees are initially limited to therapeutic marijuana, there will be a lag between PSC incurring costs and assessment and recovery of the fees. This will be true in the second year also because any leftover funds must be

returned to the general fund under the current bill. We propose SB 423 provide for funding the new program out of the general fund, at least for the first biennium.

- Although licensed growers and products manufacturers would be nonprofit organizations under the bill, there is no limit on compensation for the owners and managers of those entities. Perhaps there should be.

- Page 13, Section 10, lines 8-16: This list of who can cultivate or manufacture therapeutic marijuana includes registered cardholders, growers and products manufacturers, but does not include personal production assistants. Should the list include personal production assistants?

- Page 18, Section 18, line 14, and page 19, line 10: These provisions both say that the PSC may impose finest and penalties pursuant to law or rule. However, the bill is not specific as to whether the PSC must go to district court to collect a fine as is required in Title 69 and is also not specific as to how much a PSC fine may be.

- Page 18, Section 17, lines 17-19: This provision requires the PSC to adopt rules, rulings and findings as necessary “for the proper regulation and control ... and for the enforcement of sections 1 through 40.” Sections 1 through 40 include the DPHHS cardholder sections. Is the PSC responsible for enforcement of the law as it pertains to cardholders?

- Page 46, line 22: This section says that a licensee or registrant must surrender his license or registration if he is convicted or pleads guilty to DUI under certain circumstances. The court then must forward the surrendered license or registration and a copy of the conviction to the Department of Revenue. Should that be the PSC?

The PSC recommends a DO NOT PASS on SB 423. Thank you for the opportunity to testify.



SB 423

Board of Medical Examiners

Testimony

Senate Judiciary Committee

By Carole Erickson

Chairman Murphy and members of the committee, my name is Carole Erickson. I am a member of the Montana Board of Medical Examiners and am here today on the Board's behalf to provide information as needed. The Board of Medical Examiners is a licensing board whose primary mission is to protect health care consumers through proper licensing and regulation. Along with physicians, the board licenses EMTs, residents, physician assistants, telemedicine physicians, podiatrists, nutritionists and acupuncturists.

The Board appreciates the effort and significant time that has been devoted to this issue during this legislative session.

SB 423 puts in place a more tightly regulated medical marijuana program. It continues to stress the importance of physician involvement and adds provisions to ensure appropriate safety measures are in place to prevent abuse and protect patients. The Board stands firm on our position that the process of a physician certifying for medical marijuana is the same process that the physician uses in prescribing medicine for other problems, and physicians should not stray from medical standards of practice. The Board provided such guidance to physicians through a position paper we adopted in May of 2010. I have provided a copy of the position paper with my written testimony.

The Board is already well positioned to identify clinical standards to protect the general public's safety as well as the safety of patients. We believe an ongoing relationship with a physician is needed to ensure this drug is actually being effective in easing pain or discomfort. The board is prepared to discipline physicians who do not follow the expected standard of care and has in place a well established complaint process.

As you deliberate the merits of this bill we wanted to provide suggestions we believe would improve the bill.

Section 2. Definition of "debilitating medical condition"

The definition of "debilitating medical condition" includes a specific list in this bill. This listing of medical conditions is problematic for a couple of reasons. One, it appears to guarantee a medical marijuana card for any person with a specific diagnosis. This simply does not follow the medical practice of care. A treatment recommendation should be tailored for each patient and the diagnosis. Two, there may be other rare conditions not listed where medical marijuana may be a useful treatment. A patient having a condition listed should not, per se, qualify unless that condition is active and causing serious impairment of function/quality of life at the time *(continued on page 4)*

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Certifications by Teleconference

The Board of Medical Examiners ruled that the use of teleconference technology for initial medical marijuana certifications does not meet standard of care, amending the position paper in November 2010.

The public expects, and deserves, a certain level of quality to be delivered. The board has noted those who are seeking certifications have debilitating conditions that demand physician attentiveness and ongoing monitoring. Physicians should complete a "hands on" physical examination. Further, the physician should complete the full assessment themselves and not delegate a part of the certification process to other medical staff.

Complaints

The Board of Medical Examiners has had six complaints filed against physicians that relate to medical marijuana. Disciplinary action was taken against one physician, one physician has been noticed, two complaints were dismissed, and two are under review.

Medical Marijuana Certifications

As of December 10, 2010 there are 359 physicians in Montana who have certified one or more patients for medical marijuana. This is 9% of physicians who hold an active license.

Approximately 32 physicians have certified over 100 patients. Current law discourages the Board to look more closely at physicians who are certifying high numbers of individuals. (50-46-103 and 40-46-201, MCA)

Current law also does not give the BOME authority to look at physicians practicing in a work environment that advertises certifications will be done quickly, with or without medical records.

The law is clear that BOME can create a board generated complaint if it knows the licensee by name and cannot discipline a physician for providing written certifications to qualifying patients.

Physicians should not toss their medical education and training out the window to certify an individual for medical marijuana.

Standard of Care: Board Position Paper Clarifies and Protects

In May 2010, the Board of Medical Examiners adopted a position paper to provide needed guidance to physicians engaged in medical marijuana certifications. The position paper has served as a guiding post on physician care for the BOME, physicians, patients, and other state agencies.

Physician's Written Certification for Medical Marijuana and the Bona Fide Physician-Patient Relationship

In 2004 Montana voters approved the use of medical marijuana through the passage of Initiative 148 which was codified as The Medical Marijuana Act ("The Act") in Title 50, Chapter 46. The Act permits individuals to grow, possess and use marijuana to treat certain chronic medical conditions, and permits other individuals, called caregivers, to grow, possess and transfer marijuana to designated clients who are certified to use marijuana for medical conditions. According to the Act, in order for a person to be permitted to use marijuana for a medical condition, a Montana-licensed doctor of medicine or osteopathy must conduct a proper medical evaluation and certify that the person has one of the conditions specified or the patient must present his or her medical record to the Department of Public Health and Human Services which enforces the Act.

The mission of the Board of Medical Examiners is to protect the public by ensuring that physicians are properly trained and provide medical services within their scope of competence. The Board of Medical Examiners takes no position on the general suitability of marijuana in the treatment of medical disorders, but does have an obligation to protect the public by ensuring that physicians provide medical services via a bona fide physician-patient relationship that meet the generally accepted standards of care. *continued, page 3*

Medical Marijuana Certification Position Paper, continued

The Board of Medical Examiners is concerned about reports of physicians who are certifying patients to use marijuana for medical conditions in a mass screening format and physicians who are conducting certifying evaluations exclusively through Internet consultations.

It is the Board of Medical Examiners' position that the certification of an individual to use marijuana for a medical condition requires the same standard of care as required when any conventional medication is prescribed. The Medical Marijuana Act requires the physician to conduct a "full assessment" as part of "a bona fide physician-patient relationship." (MCA 50-46-2101(11)). Therefore, a physician who certifies a patient for medical marijuana is held to the same generally accepted standards of care as apply to every other medical practice.

Generally accepted standards of care in any treatment process require the following in an amount adequate and appropriate to the patient, condition and treatment under consideration:

- Taking a medical history
- Performing a relevant physical examination
- Reviewing prior treatment and treatment response
- Obtaining and reviewing relevant diagnostic test results
- Discussing advantages, disadvantages, alternatives, potential adverse effects and expected response to the treatment recommended, and ensuring that the patient understands them
- Monitoring the response to treatment and possible adverse effects
- Creating and maintaining patient records
- Notifying the patient's primary care physician when appropriate

Consistent with 50-46-201(4), MCA, the Board of Medical Examiners will not apply a higher or special standard of care to the certification of individuals to use marijuana for medical conditions. Neither will the Board apply a lesser or special standard. If the physician fails to meet the generally accepted standards of practice when certifying a patient to use marijuana for a medical condition, the physician may be found to be practicing below the acceptable standard of care and subject to disciplinary action for unprofessional conduct.

The Board cautions physicians that a mass screening format or group evaluations, whether for student athletes or those desiring medical marijuana, inherently tend towards inadequate standards of care. A physician involved in mass screening settings or clinics offering group evaluations for medical marijuana certification must meet the standard of care which the people of Montana rightfully expect and deserve.

Similarly, a written certification provided after a patient evaluation conducted exclusively through currently available electronic methods or the Internet may be inadequate to evaluate the complex medical conditions for which marijuana is an approved therapy. The practice of telemedicine in Montana requires a Montana license and adherence to the same standards of care as required of all Montana-licensed physicians.

Addendum

The Board of Medical Examiners recognizes the statutory requirements that a written certification for medical marijuana requires a full assessment be completed by a physician, 50-6-102, MCA. At the current time, the standard of care for physicians certifying individuals for medical marijuana requires a "hands on" physical examination by a physician. The exclusive use of teleconference methods to certify individuals does not meet this level of standard of care.

Adopted: November 19, 2010

Questions and Answers

Q Why hasn't BOME shut down the traveling medical marijuana clinics?

A BOME does not have the legal authority to investigate a facility or business. The board may initiate an investigation against a licensee, but only if a licensee can be identified.

Q Can't BOME do something about physicians who are certifying hundreds of individuals?

A We can with your help and after you have filed a complaint with the board. The names of these physicians are oftentimes kept confidential and cannot be directly obtained by the BOME. The board will act on any complaint filed against a license. Six complaints have been filed for reasons related to certifications. One physician was disciplined and a second has been noticed. In addition, the board has drafted a guidance document (position paper) that stresses the point that a physician must follow the medical standard of care.

Q Can't BOME do something about out of state physicians who are certifying individuals?

A The licensure laws do not require that a physician be a resident of Montana to be granted an active license. Many health care facilities depend on out of state physicians to temporarily cover shifts or a vacancy until a position can be filled. As for certifying for medical marijuana, the Medical Marijuana Act deems information about these physicians as confidential and, thus, the names cannot be obtained by the BOME. The board does act on any complaint filed against a licensee.

Testimony, continued from page 1

of certification and the impairment is not just a short term situation related to injury, etc. We suggest you consider allowing the Advisory Committee to establish a list.

Should you retain the list, we ask your consideration to revisit the documentation required to document chronic pain and accept that the two physician requirement as being adequate evidence for the diagnosis, and delete "central" in the reference to a nervous order system disorder. It should be encouraged that medical marijuana not be the initial treatment for a condition, but one to consider when traditional medical treatment options have failed.

Definition of "standard of care"

The bill includes the definition for standard of care. The Board wants to alert the committee that "standard of care" is not a fixed medical term, but one that changes to be consistent with contemporary medical knowledge.

Section 3. Advisory Board

The bill defines the membership of an advisory board. Please consider a medical practitioner to represent family medicine or internal medicine, and provide the option to appoint an ophthalmologist.

Section 5. Written certification

The bill requires the Board to review the practices of any physician certifying more than 25 patients. The Board would incur a cost to conduct such peer reviews and that cost, as the bill is written, would be passed along to all licensees. We ask your consideration to amend the bill to allow the Board to recover the cost from the physician whose practices are being reviewed.

The Board had additional technical suggestions and support the amendments that have been prepared to address those items. We are grateful for the interest to ensure "bad medicine" does not grow from the public's desire to see compassionate care and pain relief to those individuals stricken with painful illnesses and diseases. Thank you for your thoughtful consideration of this bill. I am available to answer questions.

Board Quick Facts

- License and regulate
acupuncturists, emergency
medical technicians,
nutritionists, physicians,
residents, telemedicine
physicians, physician assistants
and podiatrists
- 9,923 active licensees
- 4,108 active licensed physicians
of which 2,532 are in-state
- Receive about 170 complaints
each year
- Takes an average of 30 days to
get a license to practice
medicine in Montana
- Board has 13 members. 12
members are appointed by the
Governor and confirmed by the
Senate. One member is
selected by MT Academy of
Physician Assistants.
- Board members serve
staggered four year terms
- Board meets a minimum of six
times/year

Board Contact Information

Jean Branscum, Executive Director
Board of Medical Examiners
301 S. Park
Helena, Montana 59601
406/841-2360
jabranscum@mt.gov
www.medicalboard.mt.gov

6
3/25/11
SB 423

Testimony of PSC Commissioner Gail Gutsche on SB 423
March 25, 2011

Mr. Chairman and members of the Judiciary Committee:

I am sorry that I cannot be there today. I want to reiterate that the majority of the commissioners on the Public Service Commission oppose SB423, even if amended. The mission of the PSC is to regulate utilities. We are not the appropriate agency to take on the monumental task of regulating therapeutic marijuana.

It is understandable that the legislature is seeking to address some of the issues that have arisen since the citizens of Montana passed the medical marijuana law. But SB423 is not the appropriate vehicle to accomplish that task. The legislation is fraught with problems which have been thoroughly discussed already. In addition, this de facto repeal of the law is not supported by the majority of Montana voters.

The rushed time frame of the legislation, which requires that the PSC adopt emergency rules by June 1, will ensure that the contested utility hearings currently before us get short shrift, while our staff shifts all of its attention to promulgating rules.

SB423 contemplates the sale of marijuana at no profit. The commission and staff regulate for-profit public utilities. The PSC grants these utilities a return on equity, and oversees the cost of debt and capitol. Under this bill, this comprehensive area of expertise on the Commission staff would not be utilized, or necessary.

In addition, the bill establishes a significant degree of regulation over this business. The result of that increased regulation will be significantly increased costs of the product, which will be borne by the end user – Montanans who are legitimately prescribed marijuana to control chronic pain or the symptoms of devastating diseases.

Thank you for your time. I encourage you to oppose this legislation and focus instead on a solution that will resolve existing issues without creating new problems.

Commissioner Gail Gutsche (phone 406-444-6167)

BUSINESS REPORT
MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION
SENATE JUDICIARY COMMITTEE

Date: Friday, March 25, 2011
Place: Capitol

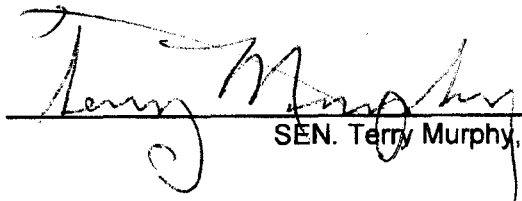
Time: 8:00 A.M.
Room: 303

BILLS and RESOLUTIONS HEARD:

SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

Comments:


SEN. Terry Murphy, Chair

MONTANA STATE SENATE

ROLL CALL

2011 JUDICIARY COMMITTEE

DATE: 3/28/11

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
CHAIRMAN, TERRY MURPHY	/	
VICE CHAIRMAN, JIM SHOCKLEY	/	
SENATOR JEFF ESSMANN	/	
SENATOR SHANNON AUGARE	/	
SENATOR ANDERS BLEWETT	/	
SENATOR GREG HINKLE	/	
SENATOR ROWLIE HUTTON	/	
SENATOR LARRY JENT	/	
SENATOR CLIFF LARSEN	/	
SENATOR LYNDA MOSS	/	
SENATOR JIM PETERSON		/
SENATOR CHAS VINCENT	/	

pg 1 of 5

SB 423 - Generally revise laws relating to use of marijuana

PLEASE PRINT

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

pg 2 of 5

SB 423 - Generally revise laws relating to use of marijuana

PLEASE PRINT

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

pg 3 of 5

Sponsor: Senator Jeff Essmann

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

pg 4 of 5

Sponsor: Senator Jeff Essmann

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

pg 5 of 5

SB 423 - Generally revise laws relating to use of marijuana

PLEASE PRINT

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE JUDICIARY COMMITTEE

Friday, March 25, 2011

SB 423 - Generally revise laws relating to use of marijuana

Sponsor: Senator Jeff Essmann

PLEASE PRINT

Name	Representing	Support	Oppose
Bill Conlughen	PSC		X
BD Williams	Self	X	
Carole Erickson	Board of Medical Examiners		X
Dandi Lane / Plains	Self Self - ^{patient} caregiver		
Travis Greene	Lionheart Caregiving		X
Gail Hinkle	Self	X	X
John L. Schaefer	Self + friends		X
Bill Hund	Happy Farmers, Butte		✓
Jon Bennion	MT Chamber	X	
Rgo SANDS	Intem Controller	X	
William C. DeSautels	MTA Self LF 3004	X	
Jennifer DeSautels	MTA Self LF 3004	X	
Bob Flee	Myself	X	
Bryan Trevithick	Lionheart + Caregiving	X	
Don & Loretta			
Janice C. Janusz, RN	LIONHEART / PATIE		X
Al Braggins	Attorney General's Office	X	
Mike Foster	Catholic Hospitals	X	
PAT Keim	Columbia Laramie	X	
CANDACE Payne	Rimrock Foundation	X	
Bruce Schwarz	Self		X
Pat LaSalle	MT Family Fedn		X

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Terry Murphy, on March 25, 2011 at 3:00 P.M., in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Terry Murphy, Chair (R)
Sen. Shannon Augare (D)
Sen. Anders Blewett (D)
Sen. Jeff Essmann (R)
Sen. Greg Hinkle (R)
Sen. Rowlie Hutton (R)
Sen. Larry Jent (D)
Sen. Cliff Larsen (D)
Sen. Lynda Moss (D)
Sen. Chas Vincent (R)

Members Excused: Sen. Jim Peterson (R)
Sen. Jim Shockley, Vice Chair (R)

Members Absent: None

Staff Present: Valencia Lane, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action on: SB 423-Do Pass As Amended

EXHIBIT(jus67b01)

Letter from Montana Automobile Dealers Association (MTADA) in support of HB
161 heard 3/11/11

EXECUTIVE ACTION ON SB 423

00:01:05 **Motion:** Sen. Essmann moved that **SB 423 DO PASS.**

EXHIBIT(jus67b02)

00:01:51 Sen. Larsen

00:03:05 Sue O'Connell, Legislative Services Division (LSD)

00:06:00 Sen. Essmann

00:06:14 Sen. Murphy

00:06:22 Ms. O'Connell

00:06:44 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1,
SEGREGATED SECTIONS 2, 4, 6, 7, 8, 9.**

EXHIBIT(jus67b03)

Discussion:

00:07:34 Sen. Moss

00:07:59 Ms. O'Connell

00:08:39 **Vote:** Motion carried unanimously by roll call vote. Sen. Peterson and Sen.
Shockley voted by proxy.

00:09:24 Sen. Larsen

00:09:40 Ms. O'Connell

00:10:28 Sen. Murphy

00:10:32 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1, SECTION 3.**

Discussion:

00:10:53 Sen. Essmann

00:11:18 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen.
Shockley voted by proxy.

00:11:52 Ms. O'Connell

00:12:55 Sen. Murphy

00:13:00 Ms. O'Connell

00:13:10 **Motion/Vote:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1,
SECTION 5, PAGE 4, SECTION 23.** Motion carried unanimously by voice vote.
Sen. Peterson and Sen. Shockley voted by proxy.

00:13:41 Ms. O'Connell
00:13:54 Sen. Essmann
00:13:58 Sen. Murphy

00:14:05 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITHIN THE TITLE, PAGE 1, LINE 12, FOLLOWING 45-10-107, INSERT 50-46-201, 50-46-202. AND FOLLOWING 69-1-401, MCA; INSERT, "REPEALING SECTIONS 50-46-101, 50-45-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-206, AND 50-46-210-MCA .** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy. (Please refer to Exhibit #4)

00:14:28 Ms. O'Connell
00:17:48 Sen. Murphy
00:17:53 Sen. Larsen
00:18:11 Sen. Essmann
00:18:14 Sen. Murphy

00:18:25 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 2, SECTIONS 10-19.**

Discussion:

00:18:49 Sen. Vincent
00:19:46 Sen. Augare

00:19:55 **Substitute Motion:** Sen. Vincent made a substitute motion that **SB 423 BE AMENDED AND TO SEGREGATE SECTIONS 11 AND 13, PAGE 2.**

Discussion:

00:20:43 Sen. Larsen

00:21:46 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:21:53 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGES 3 AND 4, SECTIONS 20-24.**

Discussion:

00:22:04 Ms. O'Connell

00:24:51 **Substitute Motion:** Sen. Essmann made a substitute motion that **SB 423 BE AMENDED AND TO SEGREGATE SECTION #21, PAGE 3.**

Discussion:

00:25:11 Ms. Lane
00:25:24 Sen. Larsen
00:25:50 Sen. Essmann
00:27:39 Sen. Larsen
00:27:50 Sen. Blewett
00:28:37 Sen. Essmann
00:29:00 Sen. Blewett
00:29:45 Sen. Essmann
00:30:11 Sen. Blewett

(Sen. Jent absent from the room)

00:31:01 Sen. Essmann
00:31:40 Sen. Larsen
00:31:53 Sen. Lane

00:32:06 **Motion/Vote:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGES 3 AND 4, SECTIONS 20, 22, 24.** Motion carried unanimously by voice vote. Sen. Jent, Sen. Peterson and Sen. Shockley voted by proxy.

00:32:38 Ms. O'Connell

00:33:32 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED with a CONCEPTUAL AMENDMENT, PAGE 44, LINE 25, TO CHANGE LANGUAGE TO "A STATE LICENSING AUTHORITY".**

00:34:01 Ms. O'Connell

(Sen. Jent returned to the room)

00:34:15 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:34:57 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 4, SECTIONS 26, 27, 28, AND 29.**

Discussion:

00:35:03 Ms. O'Connell

00:36:39 **Substitute Motion:** Sen. Essmann made a substitute motion that **SB 423 BE AMENDED PAGE 4, AND TO SEGREGATE SECTIONS 26 AND 27.**

Discussion:

00:37:09 Sen. Larsen
00:37:31 Ms. O'Connell

00:37:50 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:38:09 Sen. Essmann
00:38:51 Sen. Vincent

00:39:04 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED, PAGE 2, SECTIONS 11 AND 13, PREVIOUSLY SEGREGATED.**

Discussion:

00:39:13 Sen. Vincent
00:40:34 Sen. Moss
00:41:03 Sen. Essmann
00:42:22 Sen. Vincent

00:43:34 **Vote:** Motion failed 6-6 by roll call vote with Sen. Essmann, Sen. Hinkle, Sen. Hutton, Sen. Jent, Sen. Peterson and Sen. Shockley voting aye. Sen. Peterson and Sen. Shockley voted by proxy.

00:45:23 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 3, SECTION 21, PREVIOUSLY SEGREGATED.**

Discussion:

00:45:44 Sen. Essmann

00:46:36 **Vote:** Motion failed unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:47:11 **Motion:** Sen. Essmann moved that **SB 423 NOT BE AMENDED WITH SECTIONS 26 AND 27, PAGE 4.**

Discussion:

00:49:27 Sen. Larsen
00:49:38 Ms. O'Connell
00:49:46 Sen. Blewett
00:49:58 Ms. O'Connell
00:50:27 Sen. Blewett
00:50:38 Ms. O'Connell
00:51:09 Chairman Murphy

00:51:19 Sen. Essmann without objection **WITHDREW MOTION TO NOT ADOPT AMENDMENTS SECTION 26 AND 27, PAGE 4.**

00:51:38 Sen. Essmann
 00:52:40 Ms. O'Connell
 00:53:07 Sen. Murphy
 00:53:43 Ms. O'Connell
 00:54:09 Sen. Murphy
 00:54:25 Sen. Essmann
 00:55:04 Sen. Murphy
 00:55:58 Sen. Blewett
 00:56:15 Sen. Murphy
 00:56:55 Ms. O'Connell
 00:57:23 Sen. Vincent
 00:57:46 Sen. Essmann
 00:58:21 Sen. Moss
 00:58:30 Sen. Essmann
 00:58:49 Sen. Vincent
 00:59:26 Sen. Murphy
 00:59:46 Sen. Vincent
 01:00:20 Sen. Blewett
 01:00:28 Rep. Sands, HD 95, without objection
 01:01:15 Sen. Blewett
 01:01:38 Rep. Sands

01:02:45 **Substitute Motion:** Sen. Vincent made a substitute motion that **SB 423 BE AMENDED, PAGE 48, LINE 5, STRIKE, "2 OUNCES", INSERT THE FOLLOWING "AMOUNTS OF USABLE MARIJUANA", FOLLOWING RESIDENCE, INSERT "8 OUNCES FROM JULY 1 THROUGH JULY 31, 6 OUNCES FROM AUGUST 1 THROUGH AUGUST 31, 4 OUNCES FROM SEPTEMBER 1 THROUGH SEPTEMBER 30, AND 2 OUNCES ON OR AFTER OCTOBER 1."**

Discussion:

01:03:25 Ms. O'Connell
 01:03:49 Sen. Essmann
 01:04:52 Sen. Blewett
 01:05:17 Valencia Lane, LSD

01:05:37 **Vote:** Motion carried 8-4 by roll call vote with Sen. Essmann, Sen. Hinkle, Sen. Hutton and Sen. Jent voting no. Sen. Peterson and Sen. Shockley voted by proxy.

01:06:35 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED. EXHIBIT(jus67b04)**

Discussion:

01:07:41 Ms. O'Connell
 01:08:00 Sen. Essmann

01:09:04 **Vote:** Motion carried 11-1 by voice vote with Sen. Hinkle voting no. Sen. Peterson and Sen. Shockley voted by proxy.

01:09:41 Sen. Essmann
EXHIBIT(jus67b05)

01:09:56 Ms. O'Connell
01:11:01 Sen. Vincent
01:11:49 Sen. Essmann
01:12:10 Rep. Sands
01:12:52 Sen. Larsen
01:13:20 Sen. Murphy
01:14:55 Ms. O'Connell

01:16:29 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.
EXHIBIT(jus67b06)

01:17:05 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED**.
EXHIBIT(jus67b07)

Discussion:

01:18:19 Ms. Lane
01:18:56 Sen. Murphy
01:19:07 Ms. Lane
01:19:18 Sen. Larsen

01:20:11 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

01:20:33 Sen. Essmann (Please refer to exhibit #2)
01:21:48 Sen. Larsen
01:23:06 Julianne Burkhardt, LSD
01:23:47 Sen. Larsen
01:24:20 Sen. Blewett
01:24:43 Sen. Jent
01:24:52 Sen. Essmann
01:27:15 Sen. Jent
01:27:57 Sen. Murphy
01:29:16 Sen. Moss
01:29:56 Sen. Hutton
01:30:22 Sen. Jent
01:30:42 Sen. Hutton
01:31:08 Sen. Jent
01:31:26 Sen. Murphy
01:31:56 Sen. Hinkle
01:32:44 Sen. Essmann

01:33:16 Sen. Larsen
01:33:59 Sen. Blewett
01:34:49 Sen. Jent

(Sen. Hinkle left room)

01:35:56 Sen. Essmann
01:39:39 Sen. Jent
01:39:46 Sen. Blewett

01:40:17 **Motion:** Sen. Jent moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT on PAGE 11, LINE 4 AND 5, STRIKE "A VIOLATION OF", INSERT, "A REGISTERED CARDHOLDER WHO VIOLATES", STRIKE "\$10,000" INSERT, "\$500".**

Discussion:

01:41:11 Sen. Blewett

(Sen. Hinkle returned to the room, Sen. Larsen absent from the room)

01:44:59 **Vote:** Motion carried 10-2 by voice vote with Sen. Essmann and Sen. Hinkle voting no. Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:45:57 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT, PAGE 4, LINE 12; ADD THE WORDS "OR REFERRAL PHYSICIAN".** Motion carried 11-1 by voice vote with Sen Hinkle voting no. Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:48:08 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT, PAGE 4, LINES 22-26, STRIKE, "A REFERRAL PHYSICIAN" THROUGH "REFERRAL PHYSICIAN", INSERT, "THE SECOND PHYSICIAN WHO". FOLLOWING CERTIFICATION, INSERT, "FOR A MINOR OR A QUALIFYING PATIENT WHOSE DEBILITATING MEDICAL CONDITION IS SEVERE CHRONIC PAIN".** Motion carried unanimously voice vote with Sen. Larsen, Sen. Peterson and Sen. Shockley voting by proxy.

(Sen Blewett absent from the room)

01:49:58 Sen. Moss
01:50:11 Ms. O'Connell

01:50:51 **Motion/Vote:** Sen. Moss for Sen. Larsen moved that **SB 423 BE AMENDED ON PAGE 5, LINE 28, INSERT "INTERNAL MEDICINE", STRIKE "GYNECOLOGY" AND INSERT "OPHTHALMOLOGY".** Motion carried unanimously by voice vote. Sen. Blewett, Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy. (Please refer to Exhibit #3)

01:51:09 Ms. O'Connell

01:51:35 **Motion/Vote:** Sen. Moss moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT FOR PAGE 8, LINE 14, FOLLOWING CORRECTIONS ADD: "A DISTRICT COURT, A COURT OF LIMITED JURISDICTION"**. Motion carried unanimously by voice vote. Sen. Blewett, Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:51:53 Sen. Hutton

01:53:09 Sen. Essmann

01:54:03 Sen. Vincent

01:57:53 Sen. Hinkle

01:58:16 **Motion:** Sen. Augare moved that **SB 423 DO PASS AS AMENDED**.

(Sen. Blewett and Sen. Larsen returned to the room)

Discussion:

01:59:10 Sen. Blewett

02:00:37 Sen. Moss

02:01:13 Sen. Larsen

02:01:39 Sen. Augare

02:02:29 **Vote:** Motion carried 10-2 by roll call vote with Sen. Hinkle and Sen. Jent voting no. Sen. Peterson and Sen. Shockley voted by proxy.

ADJOURNMENT

Adjournment: 5:45 P.M.

Pam Schindler, Secretary

ps

Additional Documents:

Additional Documents:

EXHIBIT(jus67bad.pdf)



**Montana Automobile
Dealers Association**

1
3/25/11
HB 161

March 10, 2011

Governor Brian Schweitzer & Members of the Legislature:

The Montana Automobile Dealers Association would like to go on record of being in support of full repeal of Medical Marijuana . We feel that the possibility of marijuana use in dealerships by employees working on customer vehicles poses a danger to the customer. There is also a significant risk to the employees who are using repair equipment or driving vehicles while using marijuana.

We urge your support of this repeal.

Sincerely,

Marilyn J. Olsen

Executive Vice President

20
12/25/11
SB423

Issues for consideration of Senate Judiciary Committee during Executive Action on the Montana
Therapeutic Marijuana Act

1. Whether to define a "mature marijuana plant" to include a requirement that the plant be a "sterile harvestable female plant" as well as the pros and cons of utilizing this definition.
2. Consider the issue of reducing access to minors in a home setting for example, where a family member is a registered cardholder, and consideration of whether minors should be permitted to be cardholders.
3. Consider issues related to limitations on possession outside of the home. Committee bill allows maximum possession of 2 ounces in residence and 1 ounce outside of the home.
4. Have a global discussion on penalties both the amount of fines and maximum jail time for violations.
5. Consideration of whether a registration card should be valid for more than one year for certain conditions other than chronic pain.
6. Consideration of an amendment to the Committee bill to include HB 161 (repeal bill) in Committee bill

EX-11 3
DATE 3/25/11
SB 423

Amendments to Senate Bill No. 423
1st Reading Copy

Requested by Senator Jeff Essmann

For the Senate Judiciary Committee

Prepared by Sue O'Connell
March 25, 2011 (3:09pm)

1. Title, page 1, line 11.

Following: "45-9-127,"

Insert: "45-9-203,"

2. Page 3, line 27.

Strike: "person"

Insert: "physician"

3. Page 4, line 11.

Following: "means"

Insert: ", at a minimum"

4. Page 5, line 28.

Following: "family medicine"

Insert: "or internal medicine"

Strike: "gynecology"

Insert: "ophthalmology"

5. Page 8, line 13.

Following: "individual is"

Insert: "in the custody of or"

6. Page 9, line 24.

Following: "physician's"

Insert: "business"

Following: "address"

Insert: ", if any"

7. Page 9, line 29.

Following: "has a"

Insert: "bona fide"

8. Page 10, line 25.

Following: "(4)"

Insert: "(a)"

9. Page 10, line 29.

Insert: "(b) The physician whose practices are under review shall pay the costs of the board's review activities."

10. Page 11, line 4.

Following: "(2)"

Strike: "A violation of"

Insert: "A registered cardholder who violates"

11. Page 13, line 10.

Following: "(i)"

Insert: "except as provided in subsection (1)(c),"

12. Page 13, line 15.

Following: "landlord's"

Insert: "written"

13. Page 13.

Following: line 16

Insert: "(c) A cardholder who resides with a minor may not grow therapeutic marijuana at the cardholder's residence. The cardholder shall obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer."

14. Page 13, line 18.

Following: "marijuana"

Insert: ". Except as provided in subsection (2)(b), the cardholder shall keep the marijuana"

15. Page 13, line 19.

Following: "1 ounce"

Insert: "of the cardholder's usable marijuana"

16. Page 14, line 18.

Strike: "An"

Insert: "Except as provided in [section 14], an"

17. Page 16, line 20.

Strike: "or private health insurer"

Insert: ", a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116"

18. Page 16, line 22.

Following: "marijuana"

Strike: "in any workplace"

19. Page 16.

Following: line 22

Insert: "(5) Nothing in this chapter may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the medical use of marijuana; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

Renumber: subsequent subsections

20. Page 18.

Following: line 8

Insert: "(1)(a) The state licensing authority shall determine the number of licenses to be issued for therapeutic marijuana growers, therapeutic marijuana-infused products manufacturers, and couriers based upon an initial review and periodic reviews of the number of registered cardholders who have indicated to the department that they plan to obtain therapeutic marijuana from a grower or infused-products manufacturer.

(b) Based upon its initial review and periodic reviews of the number of registered cardholders and the resulting need for therapeutic marijuana, the state licensing authority may:

(i) issue temporary licenses; and

(ii) reduce the number of plants, seedlings, cuttings, and clones and the inventory of usable marijuana a grower may cultivate, manufacture, or possess."

Renumber: subsequent subsections

21. Page 20, line 18.

Following: "be obtained."

Insert: "A registered cardholder may obtain therapeutic marijuana from only one grower or manufacturer."

22. Page 21, line 27.

Following: "registrations for"

Insert: "a laboratory as allowed under [section 19] and for"

23. Page 27, line 13.

Following: "individual"

Insert: "who is in the custody of or"

24. Page 44, line 25.

Insert: "Section 51. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of marijuana is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to

surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 6]."

{Internal References to 45-9-203: None.}"

Renumber: subsequent sections

25. Page 46, line 22.

Strike: "department of revenue"

Insert: "public service commission"

26. Page 47, line 25 through line 28.

Strike: subsection (c) in its entirety

27. Page 47, line 30 through page 48, line 2.

Strike: "Cards issued" on page 47, line 30 through "subsection (2) (c)." on page 48, line 2

28. Page 48, line 30.

Insert: "NEW SECTION. Section 61. Instructions to code commissioner. (1)Wherever a reference to "medical use of marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic use of marijuana".

(2) Wherever a reference to "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic marijuana".

(3) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2] of Senate Bill No. 423.

(4) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 14] of Senate Bill No. 423."

Renumber: subsequent sections

29. Page 49, line 9.

Strike: "[Section 61]"

Insert: "[Sections 61 and 62] and this section are"

- END -

EX-111 4
DATE 3/25/11
SB 433

Amendments to Senate Bill No. 423
1st Reading Copy

Requested by Senator Jeff Essmann

For the Senate Judiciary Committee

Prepared by Sue O'Connell
March 25, 2011 (7:38am)

1. Title, page 1, line 12.

Following: "45-10-107,"

Insert: "50-46-201, 50-45-202,"

Following: "69-1-401, MCA;"

Insert: "REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA;"

2. Page 45, line 10.

Insert: "Section 53. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and

industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

{Internal References to 50-46-201: None.}"

Insert: "Section 54. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

{Internal References to 50-46-202: None.}"

Renumber: subsequent sections

3. Page 47, line 16.

Insert: "NEW SECTION. Section 59. {standard} Repealer. The following section of the Montana Code Annotated is repealed: The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

50-46-205. Limitations of Medical Marijuana Act.

50-46-206. Affirmative defense.

{Internal References to 50-46-206: None.}

50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

50-46-210. Rulemaking -- fees.

{Internal References to 50-46-101: None.

Internal References to 50-46-102: None.

Internal References to 50-46-103: 50-46-201 50-46-202

Internal References to 50-46-201: None.

Internal References to 50-46-202: None.

Internal References to 50-46-205: 50-46-206

Internal References to 50-46-207: None.

Internal References to 50-46-210: None.}"

Renumber: subsequent sections

4. Page 48, line 28 and 29.

Strike: section 59 in its entirety

5. Page 49, line 8.

Following: "4]"

Insert: " and, except as provided in subsection (4), [section 59]"

Strike: "is"

Insert: "are"

6. Page 49, line 9.

Strike: "[Section 61] is"

Insert: "The repeal of 50-46-103 provided for in [section 59] and this section are"

- END -

Ved...
DATE 3/25/11
SB 423

Amendments to Senate Bill No. 423
1st Reading Copy

For the Senate Judiciary Committee

Prepared by Sue O'Connell
March 25, 2011 (1:56pm)

1. Page 11, line 14.

Following: "licensee;"

Insert: "or"

2. Page 11, line 16 through line 18.

Strike: "; or" on line 16 through "identification card" on line
18

- END -

6
3/25/11
SB 423

Amendments to Senate Bill No. 423
1st Reading Copy

Requested by Senator Jeff Essmann

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 25, 2011 (2:29pm)

1. Page 14, line 18.

Following: "(1)"

Strike: "An"

Insert: "Subject to the provisions of subsection (7), an"

2. Page 15, line 19.

Following: line 18

Insert: "(7) The provisions of subsection (1) relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card, license, or registration prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card, license, or registration after an arrest or the filing of a criminal charge."

- END -

BUSINESS REPORT
MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION

SENATE JUDICIARY COMMITTEE

Date: Friday, March 25, 2011
Place: Capitol

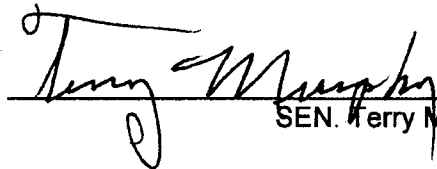
Time: 4:45 P.M.
Room: 405

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

SB 423-Do Pass As Amended

Comments:


SEN. Terry Murphy, Chair

MONTANA STATE SENATE

ROLL CALL

2011 JUDICIARY COMMITTEE

DATE: 3/25/11 4:45pm.

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
CHAIRMAN, TERRY MURPHY	/	
VICE CHAIRMAN, JIM SHOCKLEY		/
SENATOR JEFF ESSMANN	/	
SENATOR SHANNON AUGARE	/	
SENATOR ANDERS BLEWETT	/	
SENATOR GREG HINKLE	/	
SENATOR ROWLIE HUTTON	/	
SENATOR LARRY JENT	/	
SENATOR CLIFF LARSEN	/	
SENATOR LYNDA MOSS	/	
SENATOR JIM PETERSON		/
SENATOR CHAS VINCENT	/	

MONTANA STATE SENATE

ROLL CALL VOTE 2011 JUDICIARY COMMITTEE

DATE 3/29/11 BILL NO. 8423 MOTION NO. _____
MOTION: amend. 8,6,4,2 (02s.)

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR GREG HINKLE		/	
SENATOR LYNDIA MOSS	/		
SENATOR CHAS VINCENT	/		
SENATOR LARRY JENT		/	
SENATOR ANDERS BLEWETT	/		
SENATOR SHANNON AUGARE	/		
SENATOR CLIFF LARSEN	/		
SENATOR ROWLIE HUTTON		/	
SENATOR JIM PETERSON	/		/
VICE CHAIRMAN SHOCKLEY	/		/
SENATOR JEFF ESSMANN		/	
CHAIRMAN MURPHY	/		

8/4

MONTANA STATE SENATE

ROLL CALL VOTE

2011 JUDICIARY COMMITTEE

DATE 3/25/11 BILL NO. SB 423 MOTION NO. 2

MOTION: amend 2,447,89

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR GREG HINKLE	/		
SENATOR LYNDIA MOSS	/		
SENATOR CHAS VINCENT	/		
SENATOR LARRY JENT	/		
SENATOR ANDERS BLEWETT	/		
SENATOR SHANNON AUGARE	/		
SENATOR CLIFF LARSEN	/		
SENATOR ROWLIE HUTTON	/		
SENATOR JIM PETERSON	/		/
VICE CHAIRMAN SHOCKLEY	/		/
SENATOR JEFF ESSMANN	/		
CHAIRMAN MURPHY	/		

MONTANA STATE SENATE

ROLL CALL VOTE 2011 JUDICIARY COMMITTEE

DATE 3/25/11 BILL NO 58423 MOTION NO. 1

MOTION: amend 11 & 13

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR GREG HINKLE	—		
SENATOR LYNDIA MOSS		—	
SENATOR CHAS VINCENT		—	
SENATOR LARRY JENT	—		
SENATOR ANDERS BLEWETT		—	
SENATOR SHANNON AUGARE		—	
SENATOR CLIFF LARSEN		—	
SENATOR ROWLIE HUTTON	—		
SENATOR JIM PETERSON	—		—
VICE CHAIRMAN SHOCKLEY	—		—
SENATOR JEFF ESSMANN	—		
CHAIRMAN MURPHY		—	

MONTANA STATE SENATE

ROLL CALL VOTE

2011 JUDICIARY COMMITTEE

DATE 3/25/11 BILL NO. SB423 MOTION NO.
MOTION: Do Pass As Amended

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR GREG HINKLE		☒	
SENATOR LYNDIA MOSS	☒		
SENATOR CHAS VINCENT	☒		
SENATOR LARRY JENT		☒	
SENATOR ANDERS BLEWETT	☒		
SENATOR SHANNON AUGARE	☒		
SENATOR CLIFF LARSEN	☒		
SENATOR ROWLIE HUTTON	☒		
SENATOR JIM PETERSON	☒		☒
VICE CHAIRMAN SHOCKLEY	☒		☒
SENATOR JEFF ESSMANN	☒		
CHAIRMAN MURPHY	☒		

10/2

AUTHORIZED SENATE COMMITTEE PROXY

I, Senator Jim Peterson, request to be excused from the

Judiciary COMMITTEE

due to my other commitment. I desire to leave my proxy vote with:

Vice Chair Terry Murphy

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
3/25/11		
SB 423 (amend)		
P1 24689 423.01	X	
P1 Sec 3 (ASO)	X	
P1 Sect 5	X	
P4 Sect 23	X	
- rep. 2001	X	
P2 10, 12, 14, 15, 16,		
17, 18	X	
P3 4 Sec 20, 22, 24	X	
Exemption Concept	X	
P4 Sec 28, 29	X	
P2 Section 413	X	

BILL/AMENDMENT	AYE	NO
P3 Sect 21 (Seymour)	X	
P40 (Uni 5 (025..))	X	
423.02	X	
423.03	X	
423.01	X	
P11 L 455	X	
P4 L 12	X	
P4 L 22-26	X	
P5 L 28	X	
P8 L 14	X	
SB 423 - Doorman		
Commenced	X	

Sen. Jim Peterson
(Signature)

Date _____

AUTHORIZED SENATE COMMITTEE PROXY

I, Senator Jim Shockley, request to be excused from the

Judiciary COMMITTEE

due to my other commitment. I desire to leave my proxy vote with:

Vice Chair Terry Murphy

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
3/25/11		
SB 423 amended		
P1 Sect 246-789	X	
P1 Sect 3 (423.01) 950	X	
P1 Sect 5 P4 Sect 23	X	
Repealer	X	
P2 Sect 102-115	X	
P3, 4 Sect 20, 22, 24	X	
Essmann (OKed)	X	
P4 Sect 28, 29	X	
P2, Sect 11, 13	X	
P3, Sect 21	X	
P48, Line 5 "ounce"	X	
✓ 423.02 950	X	

BILL/AMENDMENT	AYE	NO
✓ 423.03	X	
✓ 423.01 and	X	
P11 Line 4, 5	X	
P4 Line 12	X	
P4 Line 22-26	X	
P5 Line 28	X	
P9 Line 14	X	
SB 423 Dotless AS		
Amended	X	

Sen. _____

(Signature)

Date

10 JAN 2011

AUTHORIZED SENATE COMMITTEE PROXY

I, Senator Larry Jent, request to be excused from the
Judiciary COMMITTEE
due to my other commitment. I desire to leave my proxy vote with:

Sen. Moss

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
3/24/11		
HB 379 Amendment	x	
HB 379 Table	x	
HB 480 Amendment	x	
HB 14 Amendment		x
(Rev: Table)		
HB 480 Amendment		
SB 157 Table	x	
SB 170 Table	x	

BILL/AMENDMENT	AYE	NO
3/25/11		
SB 423 - Amend		
P 3, 4, Sec 20, 22,		
24	x	

Sen. Larry Jent
(Signature)

Date _____

AUTHORIZED SENATE COMMITTEE PROXY

I, Senator Cliff Larsen, request to be excused from the
Judiciary COMMITTEE
 due to my other commitment. I desire to leave my proxy vote with:

Sen. Jent / Sen. Moss

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
3/23/11		
SB421 Dotans	X	

BILL/AMENDMENT	AYE	NO
3/25/11		
SB423 Amend		
P 11, Line 46'S	X	
✓ P 4, Line 12	X	
✓ P 4, Line 22-26	X	
✓ P 5, Line 28	X	
✓ P 8, Line 14	X	

Sen. Cliff Larsen
 (Signature)

Date _____

AUTHORIZED SENATE COMMITTEE PROXY

I, Senator Anders Blewett, request to be excused from the
Judiciary COMMITTEE
due to my other commitment. I desire to leave my proxy vote with:

Sen. Linda Moss / Sen. Jent

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
3/28/11		
SB 421 Dotans	X	

BILL/AMENDMENT	AYE	NO
3/28/11		
SB 423 - amend		
P 5, line 23	X	
P 8, line 14	X	

Sen. Anders Blewett
(Signature)

Date _____



SENATE STANDING COMMITTEE REPORT

March 25, 2011

Page 1 of 8

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 423** (first reading copy -- white) **do pass as amended.**

Signed: 
Senator Terry Murphy, Chair

And, that such amendments read:

1. Title, page 1, line 11.

Following: "45-9-127,"

Insert: "45-9-203,"

2. Title, page 1, line 12.

Following: "45-10-107,"

Insert: "50-46-201, 50-46-202,"

Following: "69-1-401, MCA;"

Insert: "REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA;"

3. Page 3, line 27.

Strike: "person"

Insert: "physician"

4. Page 4, line 11.

Following: "means"

Insert: ", at a minimum"

5. Page 4, line 12.

Following: "physician"

Insert: "or referral physician"

6. Page 4, line 13.

Following: "physician"

Committee Vote:

Yes 10, No 2

Fiscal Note Required ☐

SB0423001SC.sdr

22

Insert: "or referral physician"

7. Page 4, line 22.

Strike: "a referral physician" through "referral physician"

Insert: "the second physician who"

8. Page 4, line 23.

Following: "certification"

Insert: "for a minor or a qualifying patient whose debilitating medical condition is severe chronic pain"

9. Page 5, line 28.

Following: "family medicine"

Insert: "or internal medicine"

Strike: "gynecology"

Insert: "ophthalmology"

10. Page 8, line 13.

Following: "individual is"

Insert: "in the custody of or"

11. Page 8, line 14.

Following: "corrections"

Insert: ", a district court, a court of limited jurisdiction,"

12. Page 9, line 24.

Following: "physician's"

Insert: "business"

Following: "address"

Insert: ", if any"

13. Page 9, line 29.

Following: "has a"

Insert: "bona fide"

14. Page 10, line 25.

Following: "(4)"

Insert: "(a)"

15. Page 10, line 29.

Insert: "(b) The physician whose practices are under review shall pay the costs of the board's review activities."

16. Page 11, line 4.

Following: "(2)"

Strike: "A violation of"

Insert: "A registered cardholder who violates"

Strike: "\$10,000"

Insert: "\$500"

17. Page 11, line 5.

Strike: "1 year"

Insert: "6 months"

18. Page 13, line 15.

Following: "landlord's"

Insert: "written"

19. Page 13, line 18.

Following: "marijuana"

Insert: ". Except as provided in subsection (2)(b), the cardholder shall keep the marijuana"

20. Page 13, line 19.

Following: "1 ounce"

Insert: "of the cardholder's usable marijuana"

21. Page 14, line 16.

Strike: "\$1,000"

Insert: "\$500"

22. Page 14, line 18.

Strike: "An"

Insert: "Except as provided in [section 14] and subject to the provisions of subsection (7), an"

23. Page 15, line 19.

Following: line 18

Insert: "(7) The provisions of subsection (1) relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card, license, or registration prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card, license, or registration after an arrest or the filing of a criminal charge."

24. Page 16, line 20.

Strike: "or private health insurer"

Insert: ", a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116"

25. Page 16, line 22.

Following: "marijuana"

Strike: "in any workplace"

26. Page 16.

Following: line 22

Insert: "(5) Nothing in this chapter may be construed to:
 (a) prohibit an employer from including in any contract a provision prohibiting the medical use of marijuana; or
 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

Renumber: subsequent subsections

27. Page 17, line 12.

Strike: "\$1,000"

Insert: "\$500"

Strike: "1 year"

Insert: "6 months"

28. Page 18.

Following: line 8

Insert: "(1)(a) The state licensing authority shall determine the number of licenses to be issued for therapeutic marijuana growers, therapeutic marijuana-infused products manufacturers, and couriers based upon an initial review and periodic reviews of the number of registered cardholders who have indicated to the department that they plan to obtain therapeutic marijuana from a grower or infused-products manufacturer.

(b) Based upon its initial review and periodic reviews of the number of registered cardholders and the resulting need for therapeutic marijuana, the state licensing authority may:

(i) issue temporary licenses; and

(ii) reduce the number of plants, seedlings, cuttings, and clones and the inventory of usable marijuana a grower may cultivate, manufacture, or possess."

Renumber: subsequent subsections

29. Page 21, line 27.

Following: "registrations for"

Insert: "a laboratory as allowed under [section 19] and for"

30. Page 27, line 10.

Following: "individual"

Insert: "who is in the custody of or"

Following: "corrections"

Insert: ", a district court, a court of limited jurisdiction,"

31. Page 44, line 25.

Insert: "**Section 51.** Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of

justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of marijuana is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 6]."

Renumber: subsequent sections

32. Page 45, line 10.

Insert: "Section 54. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of [section 61(4)]] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal

offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Insert: "Section 55. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Renumber: subsequent sections

33. Page 46, line 22.

Strike: "department of revenue"

Insert: "state licensing authority as defined in [section 2]"

34. Page 47, line 16.

Insert: "NEW SECTION. Section 60. Repealer. The following section of the Montana Code Annotated is repealed: The following

sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees."

Renumber: subsequent sections

35. Page 48, line 3.

Strike: "September 30"

Insert: "October 1"

36. Page 48, line 5.

Following: ", and"

Strike: "2 ounces"

Insert: "the following amounts of usable marijuana"

Following: "residence"

Insert: ":

- (a) 8 ounces from July 1 through July 31;
- (b) 6 ounces from August 1 through August 31;
- (c) 4 ounces from September 1 through September 30; and
- (d) 2 ounces on or after October 1."

37. Page 48, line 28 and 29.

Strike: section 59 in its entirety

38. Page 48, line 30.

Insert: "NEW SECTION. Section 63. Instructions to code commissioner. (1)Wherever a reference to "medical use of marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic use of marijuana".

(2) Wherever a reference to "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "therapeutic marijuana".

(3) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2] of Senate Bill No. 423.

(4) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced

with a reference to [section 14] of Senate Bill No. 423."

Renumber: subsequent sections

39. Page 49, line 8.

Following: "4]"

Insert: " and, except as provided in subsection (4), [section
60]"

Strike: "is"

Insert: "are"

40. Page 49, line 9.

Strike: "[Section 61] is"

Insert: "[Section 59], the repeal of 50-46-103 provided for in
[section 60], [sections 61 and 63], and this section are"

- END -

1 SENATE BILL NO. 423

2 INTRODUCED BY J. ESSMANN

3 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
6 AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING FOR
7 THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR
8 THERAPEUTIC USE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A
9 SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS
10 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203,
11 45-10-103, 45-10-107, 50-46-201, 50-46-202, 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING
12 SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND
13 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **NEW SECTION.** **Section 1. Short title -- purpose.** (1) [Sections 1 through 40] may be cited as the
18 "Montana Therapeutic Marijuana Act".

19 (2) The purpose of [sections 1 through 40] is to:

20 (a) provide legal protections to individuals with debilitating medical conditions who engage in the
21 therapeutic use of marijuana as provided in [sections 1 through 40] to alleviate the symptoms of their debilitating
22 medical conditions;

23 (b) allow for the possession, cultivation, manufacture, delivery, and transportation of marijuana as
24 permitted by [sections 1 through 40]; and

25 (c) create a framework for therapeutic use of marijuana that protects the health, welfare, and safety of
26 both the persons engaging in the therapeutic use of marijuana and the general public by:

27 (i) allowing individuals who provide the required application materials to obtain registry identification
28 cards;

29 (ii) allowing individuals to assist, without compensation, up to four registered cardholders with the
30 cultivation and manufacture of therapeutic marijuana;

- 1 (iii) providing for licensure of individuals, businesses, and organizations that are involved in the cultivation,
2 manufacture, delivery, transportation, and transfer of therapeutic marijuana or related products;
3 (iv) allowing certain licensees to be reimbursed for their costs; and
4 (v) establishing reporting requirements for production of therapeutic marijuana and sales and inspection
5 requirements for licensed premises.
6

7 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 40], unless the context clearly
8 requires otherwise, the following definitions apply:

9 (1) "Courier" means an individual or business that is licensed to transport and deliver therapeutic
10 marijuana or therapeutic marijuana-infused products from a licensed premises to a registered cardholder.

11 (2) "Debilitating medical condition" means:

12 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency
13 syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's
14 health status;

15 (b) cachexia or wasting syndrome;

16 (c) severe chronic pain that is documented by:

17 (i) the patient's primary care physician and by a specialist with expertise in the disease process that is
18 causing the pain; and

19 (ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to
20 the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

21 (d) intractable nausea or vomiting;

22 (e) epilepsy or an intractable seizure disorder;

23 (f) multiple sclerosis;

24 (g) Crohn's disease;

25 (h) painful peripheral neuropathy;

26 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

27 (j) admittance into hospice care in accordance with rules adopted by the department; or

28 (k) any other medical condition or treatment for a medical condition approved by the legislature after
29 reviewing recommendations of the advisory board provided for in [section 3].

30 (3) "Department" means the department of public health and human services.

(4) "Licensed premises" means the premises at which a therapeutic marijuana grower, a therapeutic marijuana-infused products manufacturer, or a registrant of a grower or manufacturer is authorized to cultivate, manufacture, or provide therapeutic marijuana or therapeutic marijuana-infused products.

(5) "Licensee" means a courier, personal production assistant, therapeutic marijuana grower, or therapeutic marijuana-infused products manufacturer that has received a license pursuant to [sections 17 through 40].

(6) "Limited access area" means a building, room, or other contiguous area on a licensed premises to which only persons licensed or registered by the state licensing authority pursuant to [sections 17 through 40] may have access.

(7) "Local government" means a county, a consolidated government, or an incorporated city or town.

(8) "Marijuana" has the meaning provided in 50-32-101.

(9) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(10) "Paraphernalia" has the meaning provided in 45-10-101.

(11) (a) "Personal production assistant" means an individual 18 years of age or older who is licensed pursuant to [sections 17 through 40] and who has agreed to assist a registered cardholder as allowed under [section 23].

(b) The term does not include the cardholder's primary care or referral physician.

(12) "Primary care physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the patient that has existed for at least 6 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed.

(13) "Qualifying patient" means a person who has been diagnosed by a physician or physicians as having a debilitating medical condition.

(14) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the ~~person~~ PHYSICIAN to whom a patient's primary care physician has referred the patient for physical examination and medical assessment.

(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical

1 condition who has received and maintains a valid registry identification card.

2 (16) "Registrant" means an individual who is registered by the state licensing authority for the purposes
3 of working for a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

4 (17) "Registry identification card" means a document issued by the department pursuant to [section 4]
5 that identifies an individual as a registered cardholder.

6 (18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

7 (b) An individual is not considered a resident for the purposes of [sections 1 through 40] if the individual:

8 (i) claims residence in another state or country for any purpose; or

9 (ii) is an absentee property owner paying property tax on property in Montana.

10 (19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less
11 than 12 inches in diameter.

12 (20) "Standard of care" means, AT A MINIMUM:

13 (a) the following activities when undertaken by a patient's primary care physician OR REFERRAL PHYSICIAN
14 if the primary care physician OR REFERRAL PHYSICIAN is providing written certification for a patient with a debilitating
15 medical condition:

16 (i) obtaining the patient's medical history;

17 (ii) performing a relevant physical examination;

18 (iii) reviewing prior treatment and treatment response for the debilitating medical condition;

19 (iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

20 (v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
21 alternatives, potential adverse effects, and expected response to the recommended treatment;

22 (vi) monitoring the response to treatment and possible adverse effects; and

23 (vii) creating and maintaining patient records that remain with the physician; or

24 (b) the following activities undertaken by ~~a referral physician when the referral physician~~ THE SECOND
25 PHYSICIAN WHO is providing written certification FOR A MINOR OR A QUALIFYING PATIENT WHOSE DEBILITATING MEDICAL
26 CONDITION IS SEVERE CHRONIC PAIN:

27 (i) obtaining the patient's medical history;

28 (ii) reviewing prior treatment and treatment response for the debilitating medical condition;

29 (iii) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

30 and

1 (iv) creating and maintaining patient records that remain with the physician.

2 (21) "State licensing authority" means the public service commission provided for in 2-15-2602.

3 (22) "Therapeutic marijuana" means marijuana that is cultivated, manufactured, transferred, or used for
4 therapeutic use.

5 (23) "Therapeutic marijuana grower" means an organization that meets the requirements of [section 20]
6 and is licensed pursuant to [sections 17 through 40] to cultivate marijuana at a licensed premises.

7 (24) (a) "Therapeutic marijuana-infused product" means a product that contains therapeutic marijuana
8 and is intended for therapeutic use by means other than smoking.

9 (b) The term includes but is not limited to edible products, ointments, and tinctures.

10 (25) "Therapeutic marijuana-infused products manufacturer" means an organization that meets the
11 requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to manufacture therapeutic
12 marijuana-infused products.

13 (26) "Therapeutic use" means:

14 (a) for a registered cardholder, the possession, cultivation, manufacture, transportation, or use of
15 marijuana or paraphernalia by a registered cardholder to alleviate the symptoms or effects of the cardholder's
16 debilitating medical condition; and

17 (b) for a licensee, the cultivation, manufacture, transportation, or storage of therapeutic marijuana or the
18 possession and use of paraphernalia for the manufacture of therapeutic marijuana:

19 (i) as allowed by the applicable license; and

20 (ii) solely for use by a registered cardholder.

21 (27) "Written certification" means a statement signed by a physician stating that:

22 (a) the physician has completed a full assessment of the qualifying patient's medical history and current
23 medical condition;

24 (b) the assessment meets the standard of care;

25 (c) the qualifying patient has a debilitating medical condition; and

26 (d) the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for
27 the qualifying patient.

28
29 **NEW SECTION. Section 3. Advisory board -- membership -- duties.** (1) There is an advisory board
30 consisting of eight medical practitioners representing the fields of neurology, pain management, medical

1 oncology, psychiatry, infectious disease, family medicine ~~OR INTERNAL MEDICINE~~, and ~~gynecology~~ OPTHALMOLOGY.

2 (2) (a) Each advisory board member must be nationally board-certified in the member's area of specialty
3 and knowledgeable about the therapeutic use of marijuana.

4 (b) The governor shall appoint the members from a list of practitioners proposed by Montana
5 organizations representing physicians and health care facilities.

6 (3) The board shall meet two times a year to:

7 (a) review debilitating medical conditions previously approved by the legislature to determine whether
8 to recommend changes to the eligibility criteria for individuals applying under those conditions or to review new
9 scientific evidence pertaining to currently approved conditions, including information on the amount of therapeutic
10 marijuana allowed for approved conditions or the form in which the marijuana should be used;

11 (b) review and, if necessary, recommend increases or decreases to the quantity of marijuana that
12 therapeutic marijuana growers and registered cardholders may cultivate or manufacture in order to provide an
13 adequate supply for registered cardholders;

14 (c) recommend the manner of consumption or application of marijuana-infused products that may be
15 most appropriate for a particular debilitating medical condition; and

16 (d) review and recommend to the law and justice interim committee provided for in 5-5-226 additional
17 debilitating medical conditions for which the benefits of the use of therapeutic marijuana would likely outweigh
18 the risks, based on petitions submitted to the department for the addition of new debilitating medical conditions.

19 (4) Members of the board are entitled to be paid in an amount to be determined by the department, not
20 to exceed \$50 for each day in which a member is actually and necessarily engaged in the performance of board
21 duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while
22 performing board duties. The board's operational costs must be paid through fees, fines, and penalties paid
23 pursuant to [sections 1 through 16].

24
25 **NEW SECTION. Section 4. Registry identification cards -- minors -- exceptions -- report to**
26 **legislature.** (1) The department shall establish and maintain a program for the issuance of registry identification
27 cards to Montana residents who meet the requirements of [sections 1 through 40].

28 (2) Except as provided in subsections (4) and (5), the department shall issue a registry identification card
29 to a qualifying patient who submits the following, in accordance with department rules:

30 (a) written certification that the person is a qualifying patient;

(b) for a qualifying patient whose medical condition is severe chronic pain, objective proof of the etiology of the pain established by the results of diagnostic tests, including but not limited to x-rays, a computerized tomography scan, or magnetic resonance imaging;

(c) an application fee or renewal fee;

(d) the name, address, and date of birth of the qualifying patient;

(e) proof of Montana residency;

(f) the name, street address, and telephone number of the qualifying patient's primary care physician and referral physician, if any;

(g) a statement on a form prescribed by the department pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40];

(h) a statement indicating that the qualifying patient intends to:

(i) cultivate the qualifying patient's therapeutic marijuana; or

(ii) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer;

(i) (i) the name, street address, and date of birth of the individual's personal production assistant, if any;

or

(ii) an application for approval to acquire therapeutic marijuana from a therapeutic marijuana grower or therapeutic-marijuana infused products manufacturer.

(3) A registered cardholder may have only one personal production assistant if the cardholder chooses to cultivate and manufacture therapeutic marijuana rather than obtain the marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer.

(4) The department shall issue a registry identification card to a minor if the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) submits the materials required under subsection (2);

(b) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(c) signs and submits a written statement that:

(i) two physicians have explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the therapeutic use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

1 (A) consents to the therapeutic use of marijuana by the minor;

2 (B) agrees to serve as the minor's personal production assistant;

3 (C) agrees to control the acquisition of marijuana and the dosage and frequency of the therapeutic use
4 of marijuana by the minor;

5 (D) submits fingerprints to facilitate a finger print and background check by the department of justice and
6 the federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and
7 may not be licensed if the parent or legal guardian does not meet the requirements of [sections 1 through 40].

8 (E) pledges, on a form prescribed by the department, not to divert marijuana to anyone who is not
9 allowed to possess marijuana pursuant to [sections 1 through 40].

10 (5) The application for a minor must include written certification and the statements required under
11 [section 5] from:

12 (a) the primary care physician who is recommending marijuana for therapeutic use; and

13 (b) a second physician who has conducted a comprehensive review of the minor's medical record as
14 maintained by the minor's primary care physician and who is recommending marijuana for therapeutic use by the
15 minor.

16 (6) An individual may not be a registered cardholder if the individual is IN THE CUSTODY OF OR under the
17 supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court.

18 (7) (a) The department shall verify the information contained in an application or renewal submitted
19 pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the
20 application or renewal.

21 (b) The department may deny an application or renewal only:

22 (i) if the applicant did not provide the information required pursuant to this section;

23 (ii) if the department determines that the information was falsified;

24 (iii) if the applicant is not qualified to receive a registry identification card under the provisions of [sections
25 1 through 40]; or

26 (iv) for other reasons specified by the department by rule.

27 (c) Rejection of an application or renewal is considered a final department action, subject to judicial
28 review.

29 (8) The department shall issue a registry identification card with a unique identification number within
30 15 days of approving an application or renewal. Registry identification cards expire 1 year after the date of

1 issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of
2 time. A registry identification card must state:

3 (a) the name, street address, and date of birth of the registered cardholder;

4 (b) the name and street address of the primary care physician or referral physician, if any, who provided
5 the written certification for the cardholder;

6 (c) the date of issuance and expiration date of the registry identification card; and

7 (d) other information that the department may specify by rule.

8 (9) The department shall provide the state licensing authority with the name of each registered
9 cardholder who indicates on the application that the cardholder intends to:

10 (a) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused
11 products manufacturer; or

12 (b) use a personal production assistant.

13 (10) (a) A registered cardholder shall notify the department within 10 days of any change in the:

14 (i) cardholder's street address, physician, or personal production assistant;

15 (ii) status of the cardholder's debilitating medical condition.

16 (b) If a change occurs and is not reported to the department, the registry identification card is void.

17 (11) The department shall report biannually to the legislature the number of applications for registry
18 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
19 conditions of the cardholders, the number of registry identification cards revoked, the number of physicians
20 providing written certification for registered cardholders, and the number of written certifications each physician
21 has provided. The department may not provide any identifying information of cardholders or physicians.

22

23 **NEW SECTION. Section 5. Written certification -- accompanying statements -- required**
24 **notification to board of medical examiners.** (1) The written certification provided by a physician must be made
25 on a form prescribed by the department and signed and dated by the physician. The form must include:

26 (a) the physician's name, license number, office address, and telephone number on file with the board
27 of medical examiners and the physician's BUSINESS e-mail address, IF ANY; and

28 (b) the qualifying patient's name, date of birth, and debilitating medical condition.

29 (2) A physician who is providing written certification for a qualifying patient 18 years of age or older or
30 who is the primary care provider for a minor applying for a registry identification card shall provide:

1 (a) a statement initialed by the physician that the physician:

2 (i) has a BONA FIDE professional relationship with the qualifying patient that has existed for at least 6
3 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or
4 assessed;

5 (ii) has assumed primary responsibility for providing management and routine care of the qualifying
6 patient's debilitating medical condition after conducting a comprehensive medical history and physical
7 examination that included a personal review of any medical records maintained by other treating physicians and
8 that may have included the qualifying patient's reaction and response to conventional medical therapies;

9 (iii) has reviewed all prescription and nonprescription medications and supplements used by the qualifying
10 patient and has considered the potential drug interaction with marijuana;

11 (iv) has explained the potential risks and benefits of the therapeutic use of marijuana to the qualifying
12 patient; and

13 (v) plans to continue to assess the patient and the patient's therapeutic use of marijuana during the
14 course of the physician-patient relationship;

15 (b) a statement that in the physician's professional opinion the potential benefits of the therapeutic use
16 of marijuana would likely outweigh the health risks for the qualifying patient; and

17 (c) an attestation that the information provided in the written certification and accompanying statements
18 is true and correct.

19 (3) A physician who is the second physician recommending marijuana for therapeutic use by a minor
20 or the second physician providing a written certification for a qualifying patient whose debilitating medical
21 condition includes severe chronic pain shall submit:

22 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
23 minor's medical records as maintained by the primary care physician or documented the qualifying patient's
24 severe chronic pain as required pursuant to [sections 1 through 40];

25 (b) a statement that in the physician's professional opinion, the potential benefits of the therapeutic use
26 of marijuana would likely outweigh the health risks for the minor or qualifying patient; and

27 (c) an attestation that the information provided in the written certification and accompanying statements
28 is true and correct.

29 (4) (A) The department shall provide the board of medical examiners provided for in 2-15-1731 with the
30 name of each physician, except a referral physician, who provides written certification for 25 or more patients

1 within a 12-month period. The board of medical examiners shall review the physician's practices in order to
2 determine whether they meet the standard of care.

3 (B) THE PHYSICIAN WHOSE PRACTICES ARE UNDER REVIEW SHALL PAY THE COSTS OF THE BOARD'S REVIEW
4 ACTIVITIES.

5
6 NEW SECTION. Section 6. Unlawful conduct by cardholder -- penalties. (1) The department shall
7 revoke and may not reissue the registry identification card of a person who:

8 (a) is convicted of a drug offense; or

9 (b) allows another person to be in possession of the cardholder's card for any purpose.

10 (2) ~~A violation of A REGISTERED CARDHOLDER WHO VIOLATES~~ [sections 1 through 16] is punishable by a
11 fine not to exceed ~~\$10,000~~ \$500 or by imprisonment in a county jail for a term not to exceed ~~4-year~~ 6 MONTHS,
12 or both, unless otherwise provided in [sections 1 through 16] or unless the violation would constitute a violation
13 of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the
14 provisions of Title 45.

15
16 NEW SECTION. Section 7. Prohibitions on physician affiliation with therapeutic marijuana
17 licensees. (1) (a) A physician may not:

18 (i) accept or solicit anything of value, including monetary remuneration, from a licensee or registrant or
19 offer anything of value to a licensee or registrant;

20 (ii) offer a discount or any other thing of value to an individual who uses or agrees to use a particular
21 licensee;

22 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where
23 therapeutic marijuana is grown, manufactured, sold, or distributed; or

24 (iv) hold an economic interest in an enterprise engaged in the therapeutic use of marijuana if the
25 physician certifies the debilitating medical condition of an applicant for a registry identification card.

26 (b) This subsection (1) does not prevent a physician from accepting a fee for providing medical care to
27 a licensee or a registrant if the physician charges the licensee or registrant the same fee as the physician charges
28 other patients for providing a similar level of medical care.

29 (2) If the department has cause to believe that a physician has violated this section, has violated a
30 provision of rules adopted pursuant to [sections 1 through 40], or has not met the standard of care required under

[sections 1 through 40], the department may refer the matter to the board of medical examiners for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct as set out in 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the therapeutic use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict, as provided in 2-4-631, a physician's authority to provide written certification for the therapeutic use of marijuana.

NEW SECTION. Section 8. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer that operates within the local government's jurisdictional area. The regulations may include but are not limited to:

- (a) restrictions on number and location;
- (b) business licensing requirements;
- (c) building codes and standards; and
- (d) the inspection of businesses to ensure compliance with any sanitary requirements established by the state licensing authority.

(2) An incorporated city or town may adopt an ordinance or resolution that prohibits the cultivation or manufacture of therapeutic marijuana by a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer within its jurisdictional area.

NEW SECTION. Section 9. Health care facility procedures for patients who are registered cardholders. (1) Except for hospices that allow the therapeutic use of marijuana as provided in [section 14], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has therapeutic marijuana in the patient's possession upon admission to the health care facility:

- (a) require the patient to remove the therapeutic marijuana from the premises before the patient is admitted, if the patient is able to do so;

1 (b) make a reasonable effort to contact the patient's personal production assistant or a courier; or

2 (c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

3 (2) A personal production assistant or courier contacted by a health care facility shall remove the
4 therapeutic marijuana without charge to the health care facility and deliver it to the cardholder's residence or to
5 a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer for storage until the
6 patient is discharged from the facility. The personal production assistant or courier may return the therapeutic
7 marijuana to the cardholder upon the cardholder's discharge from the facility.

8 (3) A law enforcement agency contacted by a health care facility shall respond by removing and storing
9 the therapeutic marijuana until the patient is discharged from the facility.

10 (4) If the therapeutic marijuana is being held by a law enforcement agency, the patient may pick up the
11 therapeutic marijuana upon discharge from the hospital at no cost to the patient.

12 (5) A health care facility may not be charged for costs related to removal of therapeutic marijuana from
13 the facility's premises.

14
15 **NEW SECTION. Section 10. Therapeutic use of marijuana -- limits on amount -- presumption of**
16 **therapeutic use.** (1) (a) Marijuana for therapeutic use may be cultivated or manufactured by:

17 (i) a registered cardholder who has indicated to the department that the cardholder will grow therapeutic
18 marijuana for personal use at the cardholder's residence;

19 (ii) a therapeutic marijuana grower; or

20 (iii) a therapeutic marijuana-infused products manufacturer that has also obtained a therapeutic marijuana
21 grower license.

22 (b) A cardholder who lives in a rental property must have the landlord's WRITTEN permission to cultivate
23 or manufacture therapeutic marijuana in or on the rental property.

24 (2) (a) A registered cardholder may possess up to 4 mature marijuana plants, 12 seedlings, and a
25 maximum of 2 ounces of usable marijuana. EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE CARDHOLDER SHALL
26 KEEP THE MARIJUANA at the cardholder's residence.

27 (b) A registered cardholder may not be in possession of more than 1 ounce OF THE CARDHOLDER'S USABLE
28 MARIJUANA when the cardholder is outside of the cardholder's residence.

29 (3) A therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer may provide
30 no more than 2 ounces of usable marijuana or its equivalent in an infused product to a registered cardholder

1 during a 30-day period. The licensee shall maintain records of transactions with cardholders to verify that the
2 licensee has met the requirements of this section.

3 (4) Marijuana for therapeutic use by registered cardholders must be grown and manufactured in
4 Montana.

5 (5) (a) A registered cardholder or licensee is presumed to be engaged in the therapeutic use of
6 marijuana if the cardholder or licensee:

7 (i) is in possession of a registry identification card or an appropriate license; and

8 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections
9 1 through 40].

10 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
11 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

12

13 **NEW SECTION.** **Section 11. Confidentiality of registry information -- disclosure.** (1) The
14 department shall maintain a confidential list of individuals to whom the department has issued registry
15 identification cards. Individual names and other identifying information on the list must be confidential and are not
16 subject to disclosure, except to:

17 (a) authorized employees of the department and the state licensing authority as necessary to perform
18 official duties of the department or state licensing authority; or

19 (b) authorized employees of state or local government agencies, including law enforcement agencies,
20 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

21 (2) A person, including an employee or official of the department or other state or local government
22 agency, commits the offense of disclosure of confidential information relating to therapeutic use of marijuana if
23 the person knowingly or purposely discloses confidential information in violation of this section.

24 (3) A person convicted of disclosure of confidential information relating to therapeutic use of marijuana
25 shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed 6 months,
26 or both.

27

28 **NEW SECTION.** **Section 12. Legal protections for therapeutic use.** (1) ~~An~~ EXCEPT AS PROVIDED IN
29 [SECTION 14] AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7), AN individual who possesses a registry
30 identification card issued pursuant to [section 4] or a person licensed or registered pursuant to [sections 17

1 through 40] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege,
2 including but not limited to civil penalty or disciplinary action by a professional licensing board or the department
3 of labor and industry, solely because:

4 (a) the registered cardholder acquires, possesses, cultivates, or manufactures marijuana not in excess
5 of the amounts allowed under [section 10];

6 (b) the registered cardholder uses therapeutic marijuana; or

7 (c) the licensee or registrant undertakes the activities allowed under the applicable license or registration.

8 (2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
9 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
10 department of labor and industry, solely for providing written certification for the therapeutic use of marijuana to
11 qualifying patients.

12 (3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
13 professional licensing board or the department of labor and industry if:

14 (a) an individual's therapeutic use of marijuana impairs the individual's job-related performance; or

15 (b) a physician violates the standard of care or other requirements of [sections 1 through 40].

16 (4) An interest in or right to property that is possessed, owned, or used in connection with the therapeutic
17 use of marijuana or acts incidental to therapeutic use may not be forfeited under any provision of law providing
18 for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

19 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
20 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
21 of the therapeutic use of marijuana as permitted under [sections 1 through 40].

22 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
23 of the therapeutic use of marijuana if the individual is in possession of or is using marijuana and is not a
24 registered cardholder.

25 (6) Except as provided in [section 37], possession of or application for a registry identification card or
26 a license does not alone constitute probable cause to search the individual or the property of the individual or
27 entity possessing or applying for the registry identification card, license, or registration or otherwise subject the
28 individual or property of the individual or entity possessing or applying for the card or license to inspection by any
29 governmental agency, including a law enforcement agency.

30 (7) THE PROVISIONS OF SUBSECTION (1) RELATING TO PROTECTION FROM ARREST OR PROSECUTION DO NOT

1 APPLY TO AN INDIVIDUAL UNLESS THE INDIVIDUAL HAS OBTAINED A REGISTRY IDENTIFICATION CARD, LICENSE, OR
2 REGISTRATION PRIOR TO AN ARREST OR THE FILING OF A CRIMINAL CHARGE. IT IS NOT A DEFENSE TO A CRIMINAL CHARGE
3 THAT AN INDIVIDUAL OBTAINS A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION AFTER AN ARREST OR THE
4 FILING OF A CRIMINAL CHARGE.

5
6 **NEW SECTION. Section 13. Registry card or license to be carried and exhibited on demand --**
7 **photo identification required.** A registered cardholder or an individual licensed or registered pursuant to
8 [sections 1 through 40] shall have the cardholder's registry identification card or the individual's license or
9 registration in the individual's immediate possession at all times. The individual shall display the registry
10 identification card, license, or registration and a valid photo identification upon demand of a law enforcement
11 officer, justice of the peace, or city or municipal judge.

12
13 **NEW SECTION. Section 14. Limitations of therapeutic marijuana act -- penalties.** (1) [Sections 1
14 through 40] do not permit:

15 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
16 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana;

17 (b) the use of marijuana by a licensee;

18 (c) except as provided in subsection (3), the therapeutic use of marijuana:

19 (i) in a health care facility as defined in 50-5-101;

20 (ii) in a school or a postsecondary school as defined in 20-5-402;

21 (iii) on or in any property owned by a school district or a postsecondary school; or

22 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
23 used for school-related purposes; or

24 (d) the smoking of marijuana by a registered cardholder:

25 (i) in a school bus or other form of public transportation;

26 (ii) in a correctional facility;

27 (iii) at a public park, public beach, public recreation center, or youth center;

28 (iv) in plain view of or in a place open to the general public; or

29 (v) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
30 of children.

(2) A cardholder or licensee may not cultivate or manufacture therapeutic marijuana in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows therapeutic use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 40] may be construed to require:

(a) a government medical assistance program ~~or private health insurer~~, A GROUP BENEFIT PLAN THAT IS COVERED BY THE PROVISIONS OF TITLE 2, CHAPTER 18, AN INSURER COVERED BY THE PROVISIONS OF TITLE 33, OR AN INSURER AS DEFINED IN 39-71-116 to reimburse a person for costs associated with the therapeutic use of marijuana; or

(b) an employer to accommodate the therapeutic use of marijuana ~~in any workplace~~.

(5) NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO:

(A) PROHIBIT AN EMPLOYER FROM INCLUDING IN ANY CONTRACT A PROVISION PROHIBITING THE THERAPEUTIC USE OF MARIJUANA; OR

(B) PERMIT A CAUSE OF ACTION AGAINST AN EMPLOYER FOR WRONGFUL DISCHARGE PURSUANT TO 39-2-904 OR DISCRIMINATION PURSUANT TO 49-1-102.

~~(5)(6)~~ Nothing in [sections 1 through 40] may be construed to allow a licensee or registrant to use marijuana or to prevent criminal prosecution of a licensee or registrant who uses marijuana or paraphernalia for personal use.

~~(6)(7)~~ (a) An individual who violates subsection (1)(a) is subject to a revocation of the individual's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(b) If an individual's registry identification card is subject to renewal during the revocation period, the individual may not renew the card until the full revocation period has elapsed. The card subsequently may be renewed only if the individual submits all materials required for renewal.

NEW SECTION. Section 15. Fraudulent representation of therapeutic use of marijuana -- penalty.

(1) A person commits the offense of fraudulent representation of therapeutic use of marijuana if the person knowingly or purposely fabricates or misrepresents to a law enforcement officer a registry identification card, license, or registration issued pursuant to [sections 1 through 40].

(2) A person convicted of fraudulent representation of therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed ~~1 year~~ 6 MONTHS, or both.

NEW SECTION. Section 16. Rulemaking -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 16]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for qualifying patients and renewal of registry identification cards for registered cardholders;

(b) the acceptable forms of proof of Montana residency;

(c) the circumstances under which a patient's admittance into hospice care will qualify as a debilitating medical condition;

(d) the diagnostic tests allowable as proof of a debilitating medical condition involving severe chronic pain;

(e) the circumstances under which the department will notify the board of medical examiners of potential violations of [section 7]; and

(f) other rules necessary to implement the purposes of the regulation of therapeutic marijuana.

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 16]. The department may vary the application and renewal fees along a sliding scale that accounts for an applicant's income.

NEW SECTION. Section 17. State licensing authority. (1) The state licensing authority may hire employees to carry out the responsibilities assigned under [sections 17 through 40]. The employees are employees of the public service commission.

(2) The operational costs of the state licensing authority related to carrying out its responsibilities under [sections 17 through 40] must be fully funded by fees paid by licensees and registrants. The costs include but are not limited to the costs of the authority's licensing, inspection, and investigation duties and operation of the hotline provided for in [section 39].

1 **NEW SECTION. Section 18. State licensing authority -- powers and duties -- rulemaking authority.**

2 (1) (A) THE STATE LICENSING AUTHORITY SHALL DETERMINE THE NUMBER OF LICENSES TO BE ISSUED FOR THERAPEUTIC
3 MARIJUANA GROWERS, THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURERS, AND COURIERS BASED UPON
4 AN INITIAL REVIEW AND PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS WHO HAVE INDICATED TO THE
5 DEPARTMENT THAT THEY PLAN TO OBTAIN THERAPEUTIC MARIJUANA FROM A GROWER OR THERAPEUTIC
6 MARIJUANA-INFUSED PRODUCTS MANUFACTURER.

7 (B) BASED UPON ITS INITIAL REVIEW AND PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS
8 AND THE RESULTING NEED FOR THERAPEUTIC MARIJUANA, THE STATE LICENSING AUTHORITY MAY:

9 (I) ISSUE TEMPORARY LICENSES; AND

10 (II) REDUCE THE NUMBER OF PLANTS, SEEDLINGS, CUTTINGS, AND CLONES AND THE INVENTORY OF USABLE
11 MARIJUANA A GROWER MAY CULTIVATE, MANUFACTURE, OR POSSESS.

12 ~~(1)~~(2) The state licensing authority shall:

13 (a) grant or refuse state licenses for the cultivation, manufacture, distribution, transportation, and
14 provision of therapeutic marijuana as provided by law;

15 (b) suspend, restrict, or revoke licenses upon violation of [sections 1 through 40] or a rule adopted
16 pursuant to [sections 1 through 40];

17 (c) impose fines and penalties authorized by [sections 17 through 40] or a rule adopted pursuant to
18 [sections 17 through 40];

19 (d) take any action with respect to a registrant that it may take with respect to a licensee;

20 (e) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and
21 control of the cultivation, manufacture, distribution, transportation, and provision of therapeutic marijuana and for
22 the enforcement of [sections 1 through 40];

23 (f) hear and determine at a public hearing:

24 (i) an appeal of a state license denial; or

25 (ii) a complaint against a licensee;

26 (g) administer oaths and issue subpoenas to require the presence of persons and the production of
27 materials necessary for a hearing held pursuant to this section;

28 (h) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of
29 therapeutic marijuana provided to a particular individual or any other records that are exempt from public
30 inspection pursuant to state law;

1 (i) develop the forms, licenses, identification cards, and applications necessary for the administration of
2 [sections 17 through 40]; and

3 (j) report annually to the legislature the number of applications received and granted for each type of
4 license, the geographic locations of licensees, the number of registered cardholders served by each licensee,
5 and the number and types of licenses revoked by the state licensing authority. The report may not provide any
6 individually identifying information about licensees.

7 ~~(2)(3)~~ A hearing held pursuant to this section must comply with the provisions of Title 2, chapter 4.

8 ~~(3)(4)~~ The state licensing authority may adopt rules to carry out its duties and responsibilities, including
9 but not limited to rules related to:

10 (a) licensing procedures, including:

11 (i) procedures for applications for initial licenses, renewals, and reinstatements;

12 (ii) procedures for approval, denial, or suspension of a license;

13 (iii) provisions for fines and license restrictions or revocations;

14 (iv) the procedure and fees for submitting fingerprints for background checks; and

15 (v) the fees to be charged for license applications, license issuance, license renewals or reinstatements,
16 applications to change locations, and applications to transfer ownership. The fees must cover the operational
17 costs of the state licensing authority.

18 (b) the duties of officers and employees of the state licensing authority;

19 (c) requirements for inspections, investigations, searches, and seizures;

20 (d) penalties for violation of the provisions of [sections 17 through 40];

21 (e) prohibitions on misrepresentation and unfair practices;

22 (f) control of informational and product displays on licensed premises;

23 (g) development of individual identification cards for officers, managers, contractors, employees, and
24 other support staff of entities licensed or registered by the state licensing authority pursuant to [sections 17
25 through 40];

26 (h) security requirements for a licensed premises including, at a minimum, the lighting, physical security,
27 video, and alarm requirements and other minimum procedures for internal control as determined necessary for
28 the proper administration and enforcement of [sections 1 through 40];

29 (i) requirements for reporting changes, alterations, or modifications to a licensed premises;

30 (j) the storage of and transportation of therapeutic marijuana;

(k) sanitary requirements for therapeutic marijuana growers and for therapeutic marijuana-infused products manufacturers;

(l) the acceptable forms of photo identification that a licensee may accept when verifying a transaction;

(m) labeling standards;

(n) records to be kept by licensees and the required availability of the records, including the availability of information ensuring payment of applicable taxes;

(o) the sharing of information with other state agencies and with state and local law enforcement agencies;

(p) the use of genetic markers, if feasible, to verify the source of marijuana in a registered cardholder's possession or confiscated by a law enforcement agency; and

(q) other rules necessary to carry out the provisions of [sections 1 through 40].

~~(4)(5)~~ Nothing in [sections 1 through 40] may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a licensee or registrant. A law enforcement agency may run a Montana criminal justice information network criminal history record check of a licensee or a registrant during an investigation of unlawful activity related to therapeutic marijuana.

NEW SECTION. **Section 19. Requirements for provision of therapeutic marijuana.** (1) The state licensing authority shall establish by rule a process by which registered cardholders who plan to obtain therapeutic marijuana from a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer are provided with information about the grower or manufacturer from which the therapeutic marijuana may be obtained.

(2) A registered cardholder may not obtain therapeutic marijuana directly from a therapeutic marijuana grower or therapeutic marijuana-infused product manufacturer.

(3) The rules must include but are not limited to:

(a) the use of a courier to transport and deliver therapeutic marijuana;

(b) the manner in which licensees will ensure that therapeutic marijuana is provided only to registered cardholders; and

(c) the procedures a licensee shall follow if the licensee has reasonable cause to believe an individual is using a fraudulent registry identification card in an effort to obtain therapeutic marijuana.

(4) A licensee may provide a small amount of its therapeutic marijuana or therapeutic marijuana-infused

1 product for testing to a laboratory that is registered pursuant to rules adopted by the state licensing authority
2 pursuant to [sections 1 through 40].

3 (5) Therapeutic marijuana and marijuana-infused products must be labeled with a list of all chemical
4 additives that were used in the cultivation and production of the therapeutic marijuana or marijuana-infused
5 product, including but not limited to nonorganic pesticides, herbicides, and fertilizers.

6
7 **NEW SECTION. Section 20. Organizations eligible for certain licenses -- requirements.** (1) To
8 qualify for licensure as a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer,
9 an applicant must be an organization that is formed or incorporated with a five-member structure of control and
10 that operates the licensed activities on a reimbursement-of-costs basis and not for the purposes of earning a
11 profit.

12 (2) An applicant under this section shall provide the state licensing authority with:

13 (a) proof of the organization's structure of control;

14 (b) a list of all individuals:

15 (i) with direct or indirect authority over the management policies of the facility; and

16 (ii) having a 5% or greater ownership in the licensed premises, whether the ownership is direct or indirect
17 and is in land, buildings, or other materials. The information must include owners of any entity that owns all or
18 part of the land.

19 (c) a brief business plan showing how the organization will fund operations during the first 2 years of
20 licensing, including the funding sources to be used;

21 (d) a description of the facility that will be used for the production of therapeutic marijuana; and

22 (e) other information as required by the state licensing authority.

23
24 **NEW SECTION. Section 21. Classes of licenses -- disclosure -- confidentiality.** (1) The state
25 licensing authority may issue:

26 (a) a courier license;

27 (b) a personal production assistant license;

28 (c) a therapeutic marijuana grower license;

29 (d) a therapeutic marijuana-infused products manufacturer license; and

30 (e) registrations for A LABORATORY AS ALLOWED UNDER [SECTION 19] AND FOR managers, operators,

1 employees, contractors, and other support staff employed by, working in, or having access to a limited access
2 area of a licensed premises.

3 (2) The state licensing authority may take any action with respect to a registrant pursuant to [sections
4 17 through 40] that it may take with a licensee.

5 (3) The state licensing authority shall provide each appropriate local law enforcement agency with the
6 name and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose
7 the information to authorized employees of the agency as necessary to verify that a therapeutic marijuana
8 operation is licensed and is in compliance with the provisions of [sections 17 through 40].

9

10 **NEW SECTION. Section 22. Couriers -- requirements -- allowable activities.** (1) The state licensing
11 authority may issue a courier license to an individual or business to transport therapeutic marijuana or therapeutic
12 marijuana-infused products from a licensed therapeutic marijuana grower or therapeutic marijuana-infused
13 products manufacturer to a registered cardholder.

14 (2) An applicant for a courier license shall:

15 (a) undergo the licensing procedures established in [section 26]; and

16 (b) submit application materials as required by the state licensing authority, including but not limited to
17 a statement acknowledging that possession of the license does not allow the person to engage in the use of
18 therapeutic marijuana or paraphernalia and agreeing not to divert therapeutic marijuana to anyone who is not
19 allowed to possess marijuana pursuant to [sections 1 through 40].

20 (3) A courier shall contract with the therapeutic marijuana grower or therapeutic marijuana-infused
21 products manufacturer and may be reimbursed at a rate established by the state licensing authority.

22 (4) Before a courier transports or delivers therapeutic marijuana, the courier shall notify the local law
23 enforcement agencies having jurisdiction in the areas where the courier will obtain and deliver the therapeutic
24 marijuana. The courier shall specify the licensee from whom the courier is obtaining therapeutic marijuana and
25 the registered cardholder to whom the courier is delivering the therapeutic marijuana.

26 (5) The state licensing authority may adopt rules relating to the amount of therapeutic marijuana that a
27 courier may possess and transport at any given time.

28 (6) The state licensing authority may grant a courier license to a therapeutic marijuana grower or a
29 therapeutic marijuana-infused products manufacturer under exceptional circumstances as established by rule.
30 Exceptional circumstances include but are not limited to the proximity of registered cardholders to a therapeutic

1 marijuana grower or infused products manufacturer.

2

3 **NEW SECTION. Section 23. Personal production assistants -- requirements -- allowable activities.**

4 (1) The state licensing authority shall issue a license to an individual who is named as a personal production
5 assistant in a registered cardholder's approved application if the individual:

6 (a) registers the individual's street address with the state licensing authority;

7 (b) signs a statement:

8 (i) agreeing to:

9 (A) assist in cultivating or manufacturing therapeutic marijuana only for registered cardholders who have
10 named the applicant as their personal production assistant;

11 (B) transport therapeutic marijuana only as allowed in [section 9]; and

12 (C) notify the state licensing authority and other regulatory entities within 10 days of any change in the
13 individual's street address or in the street address where the therapeutic marijuana is cultivated or manufactured;
14 and

15 (ii) acknowledging that the individual may not engage in the use of therapeutic marijuana or use
16 paraphernalia for any purpose other than cultivating or manufacturing marijuana for therapeutic use by a
17 registered cardholder; and

18 (iii) pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to
19 [sections 1 through 40];

20 (c) undergoes the licensing procedures established in [section 26]; and

21 (d) is not prohibited from licensure under the provisions of [section 27].

22 (2) An individual may serve as a personal production assistant for no more than four registered
23 cardholders unless the state licensing authority approves a personal production assistant to serve more than four
24 patients because of exceptional circumstances. Exceptional circumstances include but are not limited to the
25 registered cardholder's proximity to a therapeutic marijuana grower or therapeutic marijuana-infused products
26 manufacturer.

27 (3) A personal production assistant may not:

28 (a) receive compensation for activities allowed under [sections 1 through 40];

29 (b) hold any other license issued under [sections 17 through 40];

30 (c) delegate to another person the personal production assistant's authority to assist in the production

1 of therapeutic marijuana for a cardholder or engage others to assist in the production of therapeutic marijuana
2 for a cardholder; or

3 (d) cultivate or manufacture therapeutic marijuana at a location other than the residence of the registered
4 cardholder.

5 (4) A personal production assistant shall maintain at all times a list of the registered cardholders who
6 have named the individual as their personal production assistant. The list must include the registry identification
7 card number of each patient and must be provided to a law enforcement agency upon request.

8

9 **NEW SECTION. Section 24. Therapeutic marijuana grower -- requirements -- allowable activities.**

10 (1) An organization licensed as a therapeutic marijuana grower shall cultivate marijuana at a licensed premises.

11 (2) A therapeutic marijuana grower shall:

12 (a) limit its therapeutic marijuana production to:

13 (i) 95 mature plants; and

14 (ii) the number of seedlings, cuttings, and clones and inventory of usable marijuana set by the state
15 licensing authority by rule; and

16 (b) submit to the state licensing authority an acknowledgment that it will not exceed allowable production
17 limits.

18 (3) A therapeutic marijuana grower may:

19 (a) sell marijuana to a therapeutic marijuana-infused products manufacturer as allowed by the state
20 licensing authority; and

21 (b) contract with a courier to deliver therapeutic marijuana to a registered cardholder.

22 (4) A therapeutic marijuana grower may not:

23 (a) transfer therapeutic marijuana to another grower; or

24 (b) conduct transactions directly with a registered cardholder at the therapeutic marijuana grower's
25 licensed premises.

26 (5) Therapeutic marijuana may not be used in any form on the licensed premises.

27

28 **NEW SECTION. Section 25. Therapeutic marijuana-infused products manufacturer -- allowable**
29 **activities.** (1) An organization licensed as a therapeutic marijuana-infused products manufacturer shall:

30 (a) prepare therapeutic marijuana-infused products on a licensed premises that is used exclusively for

1 the manufacture and preparation of therapeutic marijuana-infused products;

2 (b) use equipment that is used exclusively for the manufacture and preparation of therapeutic
3 marijuana-infused products; and

4 (c) if it does not have a therapeutic marijuana grower license, execute a written agreement or contract
5 with a therapeutic marijuana grower that states at a minimum:

6 (i) the total amount of therapeutic marijuana to be obtained from the therapeutic marijuana grower and
7 used in the manufacturing process; and

8 (ii) the total amount of therapeutic marijuana-infused products to be manufactured from the therapeutic
9 marijuana obtained from the therapeutic marijuana grower.

10 (2) All licensed premises on which therapeutic marijuana-infused products are manufactured must meet:

11 (a) the sanitary standards for therapeutic marijuana-infused product preparation adopted by the state
12 licensing authority; and

13 (b) any applicable standards set by a local board of health for a food service establishment as defined
14 in 50-50-102.

15 (3) The state licensing authority shall determine the maximum amount and forms of marijuana that a
16 therapeutic marijuana-infused products manufacturer may obtain from a therapeutic marijuana grower.

17 (4) A therapeutic marijuana-infused product must be prepackaged and labeled in accordance with rules
18 adopted by the state licensing authority to indicate at a minimum that:

19 (a) the product contains therapeutic marijuana;

20 (b) the product is manufactured without any regulatory oversight for efficacy; and

21 (c) health risks may be associated with the consumption or use of the product.

22 (5) Therapeutic marijuana and therapeutic marijuana-infused products may not be consumed on a
23 licensed premises.

24 (6) A therapeutic marijuana-infused products manufacturer that also has a therapeutic marijuana grower
25 license may use the marijuana from the licensed premises affiliated with its grower license only for the purposes
26 of making therapeutic marijuana-infused products at its manufacturing premises.

27 (7) Therapeutic marijuana-infused products may not be considered a food or drug for the purposes of
28 Title 50, chapter 31.

29
30 **NEW SECTION. Section 26. Licensing procedures -- background checks.** (1) An applicant for a

1 license or registration shall submit the following, in accordance with rules adopted by the state licensing authority:

2 (a) the name and street address of the applicant;

3 (b) the names and street addresses of the officers, directors, or managers involved with the applicant;

4 (c) the street address or physical description, if no street address is available, where the applicant's
5 facility will be located;

6 (d) application and licensing fees as established by the state licensing authority in rule; and

7 (e) any other information required by the state licensing authority.

8 (2) Payment of the fee and submission of an application do not create an entitlement to receive a license
9 or a registration.

10 (3) (a) An applicant shall submit fingerprints to facilitate a fingerprint and background check by the
11 department of justice and the federal bureau of investigation.

12 (b) The state licensing authority may acquire a name-based criminal history record check for an
13 applicant, licensee, or registrant who has twice submitted to a fingerprint-based criminal history record check and
14 whose fingerprints are unclassifiable.

15 (4) The state licensing authority shall use the information resulting from a criminal history record check
16 conducted under this section to investigate and determine whether an applicant is qualified to hold a state license
17 or registration pursuant to [sections 17 through 40]. The state licensing authority may verify any information an
18 applicant is required to submit.

19 (5) (a) Except as provided in subsection (6)(b), a license or registration issued pursuant to this section
20 is valid for 2 years from the date of issuance unless revoked or suspended pursuant to [section 36 or 38].

21 (b) A personal production assistant license is valid for:

22 (i) the same period of time as the registry identification cards for the registered cardholders who have
23 named the individual as their personal production assistant; or

24 (ii) a maximum of 2 years if the registry identification card of at least one of the registered cardholders
25 who have named the individual as their personal production assistant would expire more than 2 years after the
26 individual was first licensed.

27 (6) Each license or registration issued under [sections 17 through 40] is separate and distinct. A licensee
28 or registrant may not:

29 (a) exercise any of the privileges granted under a license or registration other than the license or
30 registration that the licensee or registrant holds; or

1 (b) allow another person to exercise the privileges granted under the license or registration.

2 (7) (a) A licensee shall notify the state licensing authority in writing of the name, street address, and date
3 of birth of a new officer, manager, or employee before the new officer, manager, or employee begins working
4 at, managing, or being associated with the licensee.

5 (b) Before the individual may begin the association with the licensee, the individual shall:

6 (i) submit fingerprints to facilitate a fingerprint and background check by the department of justice and
7 the federal bureau of investigation; and

8 (ii) obtain the identification required by the state licensing authority.

9
10 **NEW SECTION. Section 27. Persons prohibited as licensees.** The state licensing authority may not
11 issue a license to:

12 (1) an individual with a felony conviction;

13 (2) a licensed physician providing written certification for the therapeutic use of marijuana;

14 (3) an individual WHO IS IN THE CUSTODY OF OR under the supervision of the department of corrections,
15 A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court;

16 (4) a licensee who, during a period of licensure or at the time of application, has failed to:

17 (a) pay any taxes, interest, or penalties due;

18 (b) pay a judgment due to a government agency;

19 (c) stay out of default on a government-issued student loan;

20 (d) pay child support; or

21 (e) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
22 agency;

23 (5) a person who employs an individual who has not passed a criminal history record check;

24 (6) a peace officer, as defined in 45-2-101;

25 (7) an officer or employee of the state licensing authority;

26 (8) a person whose authority for a license of a different class has been revoked by the state licensing
27 authority;

28 (9) a person for a license for a location that is currently licensed pursuant to 50-57-201 as an
29 establishment or a retail food establishment; or

30 (10) an individual who has not been a resident of Montana for at least 5 years prior to the date of the

1 person's application.

2

3 **NEW SECTION. Section 28. Denial of license.** (1) The state licensing authority shall deny a license
4 to an applicant or licensee if:

5 (a) the premises on which the applicant proposes to conduct operations do not meet the requirements
6 of [sections 1 through 40];

7 (b) the applicant does not meet or fails to comply with any of the terms, conditions, or provisions of
8 [sections 1 through 40] or any rules adopted by the state licensing authority;

9 (c) the applicant fails to comply with any special terms or conditions that were placed on its license; or

10 (d) the licensed premises has been operated in a manner that adversely affects the public health or
11 welfare or the safety of the community in which the licensed premises is located.

12 (2) An applicant who is denied a license pursuant to subsection (1) is entitled to a hearing pursuant to
13 Title 2, chapter 4. The state licensing authority shall provide written notice of the reasons for denial at least 15
14 days before the hearing.

15

16 **NEW SECTION. Section 29. Restrictions applicable to new licenses -- local government authority.**

17 (1) The state licensing authority may not accept or approve an application for a license:

18 (a) until it is established that the applicant is or will be entitled to possession of the premises through a
19 lease, rental agreement, or other arrangement for possession or by virtue of ownership of the premises;

20 (b) for a location in an area where the cultivation, manufacture, and provision of therapeutic marijuana
21 as contemplated is not permitted under the applicable local government zoning laws; or

22 (c) if the building in which therapeutic marijuana is to be cultivated or manufactured is located within 2,000
23 feet of a school, a family or group day-care home as defined in 52-2-703, an alcohol or drug treatment facility,
24 or the principal campus of a postsecondary school or seminary. The distance must be measured in a straight line
25 from the nearest property line of the land used for a school, day-care home, alcohol or drug treatment center,
26 campus, or seminary to the nearest portion of the building to be used by the applicant.

27 (2) A local government may by ordinance or resolution vary the distance restrictions imposed by this
28 section or may eliminate one or more types of schools, campuses, or facilities from the application of a distance
29 restriction.

30

1 **NEW SECTION. Section 30. Licenses -- contents and display.** (1) A license issued pursuant to
2 [sections 17 through 40] must specify the date of issuance, the period of licensure, the name of the licensee, and
3 the premises that is licensed.

4 (2) The license must be conspicuously displayed at all times at the premises for which it is issued.

5 (3) The licensee shall at all times possess and maintain possession of the premises for which the license
6 is issued. Possession may be by ownership, lease, rental, or other arrangement.

7

8 **NEW SECTION. Section 31. Cash transactions prohibited.** (1) Cash transactions related to
9 therapeutic marijuana are prohibited.

10 (2) A licensee shall retain all documents related to transactions involving therapeutic marijuana, including
11 documents verifying the type of payment used for the transaction.

12 (3) A licensee shall make all documents related to transactions available to the state licensing authority
13 for inspection upon request.

14 (4) This section does not prohibit the use of checks, money orders, prepaid cards, debit cards, or credit
15 cards to reimburse licensees for costs.

16

17 **NEW SECTION. Section 32. Transfer of ownership -- change of location or manager.** (1) A
18 therapeutic marijuana grower license or therapeutic marijuana-infused manufacturer license may be transferred
19 to another organization upon application to the state licensing authority on forms prepared and furnished by the
20 state licensing authority. In determining whether to permit a transfer of ownership, the state licensing authority
21 shall consider the requirements of [sections 17 through 40] and rules adopted pursuant to [sections 17 through
22 40].

23 (2) A personal production assistant license or courier license is not transferable.

24 (3) A licensee shall report a transfer or change of ownership to the state licensing authority 30 days
25 before a transfer or change of ownership occurs.

26 (4) A report is required for transfers of capital stock of any corporation.

27 (5) Upon approval from the state licensing authority, a licensee may move the licensee's permanent
28 location to any place in the same city, town, or county for which the license was originally granted. Before granting
29 the request, the state licensing authority shall consider whether the proposed change of location would conform
30 with city, town, or county zoning requirements or regulatory decisions made pursuant to [section 8].

1 (6) A licensee shall employ a separate and distinct manager on the premises. The licensee shall report
2 to the state licensing authority:

3 (a) the name of the manager; and

4 (b) a change in manager 30 days prior to any change.
5

6 **NEW SECTION. Section 33. Unlawful financial assistance.** (1) The state licensing authority shall
7 require a complete disclosure of all persons having a direct or indirect financial interest in each license issued
8 pursuant to [sections 17 through 40]. The disclosure must include the extent of each person's financial interest.

9 (2) This section does not apply to:

10 (a) a financial institution as defined in 32-6-103;

11 (b) federal housing administration-approved mortgages; or

12 (c) stockholders, directors, or officers of financial institutions or the federal housing administration.

13 (3) This section is intended to prohibit and prevent the control of licenses by an individual, organization,
14 or business that is not licensed pursuant to the provisions of [sections 1 through 40].
15

16 **NEWSECTION. Section 34. License renewal.** (1) For all licenses except personal production assistant
17 licenses, the state licensing authority shall notify the licensee 90 days in advance of the expiration of the license.
18 The notification must be sent by first-class mail to the licensee's address of record with the state licensing
19 authority. Except as provided in subsection (2), a licensee shall apply for the renewal of an existing license at
20 least 30 days before the expiration date of the license.

21 (2) The state licensing authority, in its discretion and based upon reasonable grounds, may waive the
22 30-day requirement.

23 (3) (a) A licensee whose license has been expired for 90 days or less may file a late renewal application
24 upon the payment of a nonrefundable late application fee. A licensee who files a late renewal application and
25 pays the fee may continue to operate until the state licensing authority has taken final action on the application
26 unless the state licensing authority summarily suspends the license as provided in [section 38].

27 (b) A licensee whose license has been expired for more than 90 days may not cultivate, manufacture,
28 or distribute or otherwise transfer therapeutic marijuana until the person has obtained a new license.
29

30 **NEW SECTION. Section 35. Inactive licenses.** The state licensing authority may revoke or elect not

1 to renew a license if it determines that the licensed premises has been inactive for at least 90 days.

2

3 **NEWSECTION. Section 36. Unlawful acts by licensees.** (1) Except as otherwise provided in [sections
4 1 through 40], it is unlawful for a licensee to:

5 (a) possess more plants and usable marijuana than allowed by the terms of the license issued by the
6 state licensing authority or any rules adopted by the state licensing authority pursuant to [sections 17 through 40];

7 (b) have in possession or upon the licensed premises an amount of therapeutic marijuana in excess of
8 the amount allowed by the license;

9 (c) allow any use of therapeutic marijuana upon a licensed premises;

10 (d) have on the licensed premises any therapeutic marijuana or marijuana paraphernalia that shows
11 evidence of the therapeutic marijuana having been consumed or partially consumed;

12 (e) continue operating for the purpose of cultivation or manufacture of therapeutic marijuana or
13 therapeutic marijuana-infused products without filing the forms and paying the fees required under [sections 17
14 through 40];

15 (f) transfer or acquire therapeutic marijuana except as allowed pursuant to [sections 1 through 40];

16 (g) allow a person to be within a limited access area unless:

17 (i) the person's license or registration from the state licensing authority allows access and the person's
18 license or registration is displayed as required by [sections 1 through 40]; or

19 (ii) the person is an employee of the state licensing authority conducting an inspection pursuant to
20 [section 37];

21 (h) fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous
22 locations as required by rules adopted pursuant to [sections 17 through 40];

23 (i) fail to report a transfer or change of ownership or financial interest as required by [section 32];

24 (j) fail to report the names of or a change in managers as required by [section 32];

25 (k) display any signs;

26 (l) advertise in any medium, including electronic media;

27 (m) provide public premises for the purpose of using therapeutic marijuana in any form;

28 (n) provide therapeutic marijuana to a person not licensed pursuant to [sections 17 through 40] or to an
29 individual who is unable to produce a valid registry identification card;

30 (o) offer for sale or solicit an order for therapeutic marijuana;

1 (p) provide therapeutic marijuana anywhere other than the licensed premises specifically designated in
2 the license unless the licensee is a courier; or

3 (q) violate the provisions of 30-14-205 and 30-14-209.

4 (2) (a) It is unlawful for a therapeutic marijuana grower to possess, transfer, deliver, or cause to be
5 delivered to any person therapeutic marijuana not grown upon its licensed premises.

6 (b) A violation of this subsection (2) is grounds for the immediate revocation of the license granted under
7 [sections 17 through 40].

8 (3) (a) It is unlawful for a physician to make patient referrals to a therapeutic marijuana licensee or to
9 receive anything of value from a licensee or its agents, servants, or officers or anyone with a financial interest
10 in the license.

11 (b) It is unlawful for a licensee or registrant to offer anything of value to a physician.

12 (4) A person who violates a provision of this section commits a misdemeanor that is punishable by a fine
13 not to exceed \$10,000 or by imprisonment in a county jail for a term not to exceed 1 year, or both, unless the
14 violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged
15 and prosecuted pursuant to the provisions of Title 45.

16

17 **NEW SECTION.** **Section 37. Inspection procedures.** (1) The state licensing authority may conduct
18 frequent, unannounced inspections.

19 (2) (a) Each licensee shall keep a complete set of records necessary to show all business transactions.
20 The records must be open for inspection by the state licensing authority at any time during business hours.

21 (b) The state licensing authority may require:

22 (i) a licensee to furnish information it considers necessary for the proper administration of [sections 1
23 through 40]; and

24 (ii) an audit of the licensee's records and accounts by an auditor selected by the state licensing authority.
25 The auditor may have access to all books and records of the licensee.

26 (3) The licensee shall pay the costs of an audit required under this section.

27 (4) (a) A licensed premises, including any places of storage, where therapeutic marijuana is cultivated,
28 manufactured, stored, cultivated, or distributed is subject to entry by the state licensing authority for the purpose
29 of inspection or investigation during all business hours and other times of apparent activity.

30 (b) (i) For examination of inventory or books and records required to be kept by the licensee, the state

1 licensing authority may have access during business hours.

2 (ii) If any part of the licensed premises consists of a locked area, the licensee shall make the area
3 available for inspection without delay upon request of the state licensing authority.

4 (5) A licensee shall keep all books and records showing all business transactions of the licensee for the
5 current tax year and the 7 tax years immediately preceding the current tax year.

6 (6) Within 15 days after the end of each month and in a manner prescribed by the state licensing
7 authority, a licensee shall file a statement showing for that month:

8 (a) the total gross income collected through reimbursement of costs;

9 (b) the amount of usable marijuana produced;

10 (c) the number of plants grown, seedlings started, and cuttings and clones in inventory;

11 (d) the names and registry identification numbers of registered cardholders to whom mature plants,
12 seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to
13 each cardholder; and

14 (e) the number of mature plants, seedlings, cuttings, and clones and amount of usable marijuana
15 remaining in inventory.

16

17 **NEW SECTION. Section 38. Penalties for licensees.** (1) The state licensing authority may summarily
18 suspend a license or issue a notice of contemplated action for a violation of any provision of [sections 17 through
19 40] or rules adopted pursuant to [sections 17 through 40].

20 (2) A license may be revoked, suspended, or subject to other disciplinary action and a renewal action
21 may be denied for:

22 (a) failure to comply with or satisfy any provisions of [sections 1 through 40] or rules adopted by the state
23 licensing authority;

24 (b) failure to allow an inspection by an authorized representative of the state licensing authority;

25 (c) falsification of any material or information submitted to the state licensing authority;

26 (d) diversion of therapeutic marijuana as determined by the state licensing authority; or

27 (e) threatening or harming a registered cardholder, a physician, or an employee of the state licensing
28 department.

29 (3) (a) A licensee whose license has been summarily suspended or who has received a notice of
30 contemplated action may request a hearing and an administrative review of written materials as applicable. The

licensee shall file the request for a hearing within 30 days of the date the action is taken or the notice is received.

(b) The request must be sent to the state licensing authority and include:

(i) the requester's name, address, and telephone number;

(ii) a statement of the facts relevant to the review of the action;

(iii) a statement of the statutes and administrative rules relevant to the review of the action; and

(iv) any other information or evidence the requester considers relevant to the request.

(4) The state licensing authority shall consider the request as provided in title 2, chapter 4.

NEW SECTION. Section 39. Hotline. (1) The state licensing authority shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 40].

(2) The state licensing authority may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 40]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

NEW SECTION. Section 40. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the state licensing authority for use in administering [sections 17 through 40]. The account consists of money deposited into the account from licensing fees and penalties assessed by the state licensing authority and any other source of revenue due to the state licensing authority. Interest earned on the account must be deposited into the account and used to sustain the account.

(2) Money from the account must be used to cover the expenses of the state licensing authority.

(3) Money remaining in the account at the end of the fiscal year must be transferred to the general fund.

Section 41. Section 37-1-136, MCA, is amended to read:

"37-1-136. Disciplinary authority of boards -- injunctions. (1) Subject to 37-1-138, each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

- 1 (d) placing a licensee on probation;
2 (e) reprimand or censure of a licensee; or
3 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
4 proper.

5 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the
6 provisions of the Montana Administrative Procedure Act.

7 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from
8 engaging in the practice of the occupation or profession regulated by the board until a license to practice is
9 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

10 (4) An action may not be taken against a person who is in compliance with ~~Title 50, chapter 46~~ sections
11 1 through 40.

12 (5) Rules adopted under subsection (1) must provide for the provision of public notice as required by
13 37-1-311."

14

15 **Section 42.** Section 37-1-316, MCA, is amended to read:

16 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
17 applicant governed by this part:

18 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
19 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
20 theft, whether or not an appeal is pending;

21 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
22 licensure or certification;

23 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
24 securing a license or license renewal or in taking an examination required for licensure;

25 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
26 knows or reasonably ought to know contains a false or misleading statement;

27 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
28 the profession or occupation;

29 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
30 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local

1 law, rule, or ordinance governing the licensee's profession or occupation;

2 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
3 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
4 on appeal, under judicial review, or has been satisfied;

5 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

6 (9) revealing confidential information obtained as the result of a professional relationship without the prior
7 consent of the recipient of services, except as authorized or required by law;

8 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
9 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

10 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
11 the profession or occupation with reasonable skill and safety;

12 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
13 disease involving serious risk to public health or without taking adequate precautions, including but not limited
14 to informed consent, protective gear, or cessation of practice;

15 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
16 regarding the accounting and distribution of a client's property or funds;

17 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
18 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
19 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
20 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
21 filed, prosecuted, or completed;

22 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
23 organization to practice or offer to practice by use of the licensee's license;

24 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
25 appeal, against the licensee or of an action against the licensee by a:

26 (a) peer review committee;

27 (b) professional association; or

28 (c) local, state, federal, territorial, provincial, or Indian tribal government;

29 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
30 implementing 28-10-103(3)(a);

1 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
2 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
3 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
4 to prove conduct that does not meet generally accepted standards.

5 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
6 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]."
7

8 **Section 43.** Section 37-3-343, MCA, is amended to read:

9 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
10 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
11 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

12 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
13 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
14 to become board-certified and on which the physician bases the physician's application for a telemedicine license
15 pursuant to 37-3-345(2).

16 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
17 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
18 present within the state.

19 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
20 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40].

21 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
22 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
23 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
24 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."
25

26 **Section 44.** Section 37-3-347, MCA, is amended to read:

27 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
28 deny an application for a telemedicine license if the applicant:

29 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
30 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

1 (b) plans to use telemedicine as a means of obtaining the information required for a written certification
2 that is used to apply for a registry identification card pursuant to [sections 1 through 40]:

3 ~~(b)~~(c) fails to pay a required fee;

4 ~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

5 ~~(d)~~(e) has committed unprofessional conduct.

6 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
7 apply for a physician's license in order to practice medicine in Montana."

8
9 **Section 45.** Section 41-5-216, MCA, is amended to read:

10 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
11 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
12 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
13 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
14 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
15 extended jurisdiction.

16 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
17 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
18 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
19 court.

20 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
21 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

22 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
23 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
24 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
25 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
26 offender pursuant to Title 46, chapter 23, part 5.

27 (5) After formal youth court records, law enforcement records, and department records are sealed, they
28 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
29 a new offense, to:

30 (a) those persons and agencies listed in 41-5-215(2); and

1 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
2 age of majority.

3 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
4 under subsection (1), the electronic records of the management information system maintained by the department
5 of public health and human services and by the department relating to the youth whose records are being sealed
6 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

7 (b) The department of public health and human services and the department shall disassociate the
8 offense and disposition information from the name of the youth in the respective management information system.
9 The offense and disposition information must be maintained separately and may be used only:

10 (i) for research and program evaluation authorized by the department of public health and human
11 services or by the department and subject to any applicable laws; and

12 (ii) as provided in Title 5, chapter 13.

13 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
14 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
15 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
16 only pursuant to subsection (5).

17 (b) The informal youth court records may be maintained and inspected only by youth court personnel
18 upon a new offense prior to the youth's 18th birthday.

19 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
20 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
21 in hard-copy form must be destroyed and any electronic records in the youth court management information
22 system must disassociate the offense and disposition information from the name of the youth and may be used
23 only for the following purposes:

24 (i) for research and program evaluation authorized by the office of the court administrator and subject
25 to any applicable laws; and

26 (ii) as provided in Title 5, chapter 13.

27 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
28 court records within the juvenile probation management information system. Electronic records of the youth court
29 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
30 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record

1 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
2 as provided in subsection (2) of this section.

3 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
4 court records within the department's youth management information system. Electronic records of the
5 department's youth management information system may not be shared except as provided in subsection (5).
6 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
7 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
8 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

9 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
10 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
11 of a youth within the facility.

12 (11) This section does not prohibit access to formal or informal youth court records, including electronic
13 records, for purposes of conducting evaluations as required by 41-5-2003.

14 (12) This section does not prohibit the office of court administrator, upon written request from the
15 department of public health and human services or the state licensing authority as defined in [section 2], from
16 confirming whether a youth applying for a registry identification card or a license or registration as provided in
17 [sections 1 through 40] is currently under youth court supervision."

18
19 **Section 46.** Section 45-9-101, MCA, is amended to read:

20 **"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in ~~Title 50, chapter 46~~
21 [sections 1 through 40], a person commits the offense of criminal distribution of dangerous drugs if the person
22 sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as
23 defined in 50-32-101.

24 (2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an
25 opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or
26 more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

27 (3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule
28 II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for
29 criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or
30 more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or

1 subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison
2 for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided
3 in 46-18-222.

4 (4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
5 subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than
6 life or be fined an amount of not more than \$50,000, or both.

7 (5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of
8 dangerous drugs to a minor shall be sentenced as follows:

9 (a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less
10 than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

11 (b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
12 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the
13 state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as
14 provided in 46-18-222.

15 (c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
16 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be
17 imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than
18 \$50,000, except as provided in 46-18-222.

19 (d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less
20 than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

21 (6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
22 professional practice are exempt from this section."

23
24 **Section 47.** Section 45-9-102, MCA, is amended to read:

25 **"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in ~~Title 50, chapter 46~~
26 sections 1 through 40, a person commits the offense of criminal possession of dangerous drugs if the person
27 possesses any dangerous drug, as defined in 50-32-101.

28 (2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate
29 weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a
30 misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in

1 the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended
2 or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable
3 by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state
4 prison for a term not to exceed 3 years or by both.

5 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first
6 offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by
7 imprisonment in the county jail for not more than 6 months, or both.

8 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be
9 imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more
10 than \$50,000, except as provided in 46-18-222.

11 (5) (a) A person convicted of a second or subsequent offense of criminal possession of
12 methamphetamine shall be punished by:

13 (i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or

14 (ii) commitment to the department of corrections for placement in an appropriate correctional facility or
15 program for a term of not less than 3 years or more than 5 years. If the person successfully completes a
16 residential methamphetamine treatment program operated or approved by the department of corrections during
17 the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not
18 to exceed \$50,000.

19 (b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place
20 the person in a residential methamphetamine treatment program operated or approved by the department of
21 corrections or in a correctional facility or program. The residential methamphetamine treatment program must
22 consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based
23 prerelease center.

24 (c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

25 (i) the person to abide by the standard conditions of probation established by the department of
26 corrections;

27 (ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person
28 if the person is financially able to pay those costs;

29 (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption
30 on the premises or where gambling takes place;

1 (iv) that the person may not consume alcoholic beverages;

2 (v) the person to enter and remain in an aftercare program as directed by the person's probation officer;

3 and

4 (vi) the person to submit to random or routine drug and alcohol testing.

5 (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in
6 subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined
7 an amount not to exceed \$50,000, or both.

8 (7) A person convicted of a first violation under this section is presumed to be entitled to a deferred
9 imposition of sentence of imprisonment.

10 (8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting
11 in the course of a professional practice are exempt from this section."

12
13 **Section 48.** Section 45-9-103, MCA, is amended to read:

14 **"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in ~~Title 50, chapter~~
15 ~~46 [sections 1 through 40]~~, a person commits the offense of criminal possession with intent to distribute if the
16 person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

17 (2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to
18 distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and
19 may be fined not more than \$50,000, except as provided in 46-18-222.

20 (3) A person convicted of criminal possession with intent to distribute not otherwise provided for in
21 subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount
22 not to exceed \$50,000, or both.

23 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
24 professional practice are exempt from this section."

25
26 **Section 49.** Section 45-9-110, MCA, is amended to read:

27 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) Except as provided in ~~Title~~
28 ~~50, chapter 46 [sections 1 through 40]~~, a person commits the offense of criminal production or manufacture of
29 dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds,
30 or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. A person convicted under this subsection who has a prior conviction that has become final for criminal production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

(5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 50. Section 45-9-127, MCA, is amended to read:

"45-9-127. Carrying dangerous drugs on train -- penalty. (1) Except as provided in ~~Title 50, chapter 46 [sections 1 through 40]~~, a person commits the offense of carrying dangerous drugs on a train in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

1 **SECTION 51. SECTION 45-9-203, MCA, IS AMENDED TO READ:**

2 **"45-9-203. Surrender of license or registry identification card.** (1) If a court suspends or revokes a
3 driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the
4 court. The court shall forward the license and a copy of the sentencing order to the department of justice. The
5 defendant may apply to the department for issuance of a probationary license under 61-2-302.

6 **(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of**
7 **marijuana is convicted of an offense under this chapter, the court shall:**

8 **(a) at the time of sentencing, require the person to surrender the registry identification card; and**

9 **(b) notify the department of public health and human services of the conviction in order for the**
10 **department to carry out its duties under [section 6]."**

11
12 **Section 52. Section 45-10-103, MCA, is amended to read:**

13 **"45-10-103. Criminal possession of drug paraphernalia.** Except as provided in ~~Title 50, chapter 46~~
14 **[sections 1 through 40]**, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to
15 plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,
16 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body
17 a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be
18 imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A
19 person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence
20 of imprisonment."

21
22 **Section 53. Section 45-10-107, MCA, is amended to read:**

23 **"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision
24 acting in the course of a professional practice and persons in compliance with ~~Title 50, chapter 46~~ **[sections 1**
25 **through 40]**; are exempt from this part."

26
27 **SECTION 54. SECTION 50-46-201, MCA, IS AMENDED TO READ:**

28 **"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of**
29 **medical use.** (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ **before the**
30 **effective date of [section 61(4)]** may not be arrested, prosecuted, or penalized in any manner or be denied any

1 right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board
2 or the department of labor and industry, if:

3 (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers,
4 or transports marijuana not in excess of the amounts allowed in subsection (2); or

5 (b) the qualifying patient uses marijuana for medical use.

6 (2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana
7 plants and 1 ounce of usable marijuana each.

8 (3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the
9 qualifying patient or caregiver:

10 (i) is in possession of a registry identification card; and

11 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under
12 subsection (2).

13 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
14 purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

15 (4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
16 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
17 department of labor and industry, for providing written certification for the medical use of marijuana to qualifying
18 patients.

19 (5) An interest in or right to property that is possessed, owned, or used in connection with the medical
20 use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for
21 the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

22 (6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as
23 provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity
24 of the medical use of marijuana as permitted under this chapter.

25 (7) Possession of or application for a registry identification card does not alone constitute probable cause
26 to search the person or property of the person possessing or applying for the registry identification card or
27 otherwise subject the person or property of the person possessing or applying for the card to inspection by any
28 governmental agency, including a law enforcement agency.

29 (8) A registry identification card or its equivalent issued by another state government to permit the
30 medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical

1 use of marijuana has the same force and effect as a registry identification card issued by the department."

2

3 **SECTION 55. SECTION 50-46-202, MCA, IS AMENDED TO READ:**

4 **"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.**

5 (1) The department shall maintain a confidential list of the persons to whom the department has issued registry
6 identification cards. Individual names and other identifying information on the list must be confidential and are not
7 subject to disclosure except to:

8 (a) authorized employees of the department as necessary to perform official duties of the department;

9 or

10 (b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful
11 possessor of a registry identification card.

12 ~~(4)~~(2) A person, including an employee or official of the department or other state or local government
13 agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the
14 person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

15 ~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana
16 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

17

18 **Section 56. Section 61-11-101, MCA, is amended to read:**

19 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
20 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
21 the suspension or revocation of the driver's license or commercial driver's license of the person by the
22 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
23 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
24 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
25 indicate that fact in its report to the department.

26 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
27 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
28 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
29 the conviction becomes final. The court may recommend that the department issue a restricted probationary
30 license on the condition that the individual comply with the requirement that the person attend and complete a

1 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

2 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
3 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
4 upon which it is based to the department within 5 days on forms furnished by the department.

5 (4) A conviction becomes final for the purposes of this part upon the later of:

6 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

7 (b) forfeiture of bail that is not vacated; or

8 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
9 execution of a sentence.

10 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
11 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
12 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
13 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
14 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
15 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
16 person who holds any other type of driver's license.

17 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
18 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
19 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
20 subsection (1).

21 (6) (a) If a person who holds a valid therapeutic marijuana registry identification card or a therapeutic
22 marijuana license or registration issued pursuant to [sections 1 through 40] is convicted of or pleads guilty to any
23 offense related to driving under the influence of alcohol or drugs when the initial offense with which the person
24 was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall
25 require the person to surrender the registry identification card, license, or registration.

26 (b) Within 5 days after the conviction becomes final, the court shall forward:

27 (i) the registry identification card and a copy of the conviction to the department of public health and
28 human services; or

29 (ii) the license or registration and a copy of the conviction to the ~~department of revenue~~ STATE LICENSING
30 AUTHORITY AS DEFINED IN [SECTION 2]."

Section 57. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), ~~or 69-12-423(2), or [sections 17 through 40]~~, a fee set by the commission may not exceed \$500.

(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."

Section 58. Section 69-1-401, MCA, is amended to read:

"69-1-401. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of public service regulation provided for in Title 2, chapter 15, part 26.

(2) (a) "Regulated companies" means all organizations, corporations, associations, or other public or private entities which now are or may ~~hereafter~~ become subject to regulation in any manner by the department of public service regulation, the public service commission, or any successor agency. The term does not include motor carriers regulated pursuant to Title 69, chapter 12.

(b) The term does not include individuals, businesses, or organizations licensed by the department pursuant to [sections 17 through 40]."

NEW SECTION. Section 59. Emergency rulemaking. The department of public health and human services and the public service commission shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards and processing of license applications pursuant to [sections 1 through 40] by June 1, 2011.

NEW SECTION. SECTION 60. REPEALER. THE FOLLOWING SECTIONS OF THE MONTANA CODE ANNOTATED ARE REPEALED:

50-46-101. SHORT TITLE.

50-46-102. DEFINITIONS.

50-46-103. PROCEDURES -- MINORS -- CONFIDENTIALITY -- REPORT TO LEGISLATURE.

50-46-201. MEDICAL USE OF MARIJUANA -- LEGAL PROTECTIONS -- LIMITS ON AMOUNT -- PRESUMPTION OF MEDICAL

- 1 USE.
- 2 50-46-202. DISCLOSURE OF CONFIDENTIAL INFORMATION RELATING TO MEDICAL USE OF MARIJUANA -- PENALTY.
- 3 50-46-205. LIMITATIONS OF MEDICAL MARIJUANA ACT.
- 4 50-46-206. AFFIRMATIVE DEFENSE.
- 5 50-46-207. FRAUDULENT REPRESENTATION OF MEDICAL USE OF MARIJUANA -- PENALTY.
- 6 50-46-210. RULEMAKING -- FEES.

7

8 **NEW SECTION.** **Section 61. Transition.** (1) (a) Registry identification cards issued prior to [the
9 effective date of this act] to qualifying patients for a debilitating medical condition that did not include severe or
10 chronic pain are valid until the expiration date listed on the card.

11 (b) Registry identification cards issued to qualifying patients for a debilitating medical condition that
12 included severe or chronic pain expire on August 31, 2011. An individual who is in possession of marijuana after
13 August 31, 2011, is not protected by the provisions of Title 50, chapter 46, that were in effect on [the effective date
14 of this act] if the individual was issued a registry identification card for a condition that included severe or chronic
15 pain and has not obtained a new registry identification card pursuant to sections [1 through 40].

16 (c) The department of public health and human services shall, before August 31, 2011, reissue cards
17 to qualifying patients who obtained a card before [passage and approval of this act] and whose debilitating
18 medical condition at the time of registration did not include severe or chronic pain. The cards must be issued
19 using a color that makes them easily distinguishable from cards issued prior to [the passage and approval of this
20 act].

21 (2) The department of public health and human services may begin issuing new registry identification
22 cards pursuant to [sections 1 through 16] on July 1, 2011. Cards issued pursuant to [sections 1 through 16] must
23 be issued using a color that makes them easily distinguishable from cards issued before [passage and approval
24 of this act] and from cards issued pursuant to subsection (2)(c).

25 (3) From July 1, 2011, to ~~September 30~~ OCTOBER 1, 2011, an individual with a valid registry identification
26 card issued before [the effective date of this act] or pursuant to [sections 1 through 16] may possess four mature
27 plants, 12 seedlings, and ~~2 ounces~~ THE FOLLOWING AMOUNTS of usable marijuana at the cardholder's residence:

28 (A) 8 OUNCES FROM JULY 1 THROUGH JULY 31;

29 (B) 6 OUNCES FROM AUGUST 1 THROUGH AUGUST 31;

30 (C) 4 OUNCES FROM SEPTEMBER 1 THROUGH SEPTEMBER 30; AND

1 (D) 2 OUNCES ON OR AFTER OCTOBER 1.

2 (4) (a) The public service commission may begin processing applications for licenses for couriers,
3 personal production assistants, therapeutic marijuana growers, and therapeutic marijuana-infused product
4 manufacturers on June 1, 2011.

5 (b) Personal production assistants may begin carrying out the activities allowed under their license on
6 July 1, 2011.

7 (c) Beginning July 1, 2011, therapeutic marijuana growers and therapeutic marijuana-infused product
8 manufacturers that have been licensed by the public service commission may cultivate, manufacture, and
9 possess marijuana for therapeutic use but may not engage in any transactions with cardholders or couriers before
10 October 1, 2011.

11 (d) Couriers licensed by the state licensing authority before October 1, 2011, may not undertake the
12 activities allowed by their license until October 1, 2011.

13 (4) A caregiver who obtained a registry identification card prior to [the effective date of this act] is
14 protected by the provisions of Title 50, chapter 46, that were in effect prior to [the effective date of this act] until
15 June 30, 2011. A caregiver may not be in possession of marijuana plants, seedlings, cuttings, clones, usable
16 marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items
17 to the law enforcement agency having jurisdiction in their area. The law enforcement agency shall destroy the
18 items.

19
20 NEW SECTION. Section 62. Codification instruction. [Sections 1 through 40] are intended to be
21 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
22 1 through 40].

23
24 ~~COORDINATION SECTION. Section 59. Coordination instruction. (1) If House Bill No. 161 is not~~
25 ~~passed and approved, then [this act] is void.~~

26
27 NEW SECTION. SECTION 63. INSTRUCTIONS TO CODE COMMISSIONER. (1) WHEREVER A REFERENCE TO
28 "MEDICAL USE OF MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER
29 IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC USE OF MARIJUANA".

30 (2) WHEREVER A REFERENCE TO "MEDICAL MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011

1 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC MARIJUANA".

2 (3) WHEREVER A REFERENCE TO 50-46-102 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE,

3 THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 2] OF SENATE BILL NO. 423.

4 (4) WHEREVER A REFERENCE TO 50-46-205 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE,

5 THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 14] OF SENATE BILL NO. 423.

6
7 NEW SECTION. Section 64. Severability. If a part of [this act] is invalid, all valid parts that are
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
9 the part remains in effect in all valid applications that are severable from the invalid applications.

10
11 NEW SECTION. Section 65. Effective dates. (1) Except as provided in subsections (2) through (4),
12 [this act] is effective October 1, 2011.

13 (2) [Sections 17, 18, and 25 through 29] are effective June 1, 2011.

14 (3) [Section 4] AND, EXCEPT AS PROVIDED IN SUBSECTION (4), [SECTION 60] is ARE effective July 1, 2011.

15 (4) ~~[Section 61] is~~ [SECTION 59], THE REPEAL OF 50-46-103 PROVIDED FOR IN [SECTION 60], [SECTIONS 61
16 AND 63], AND THIS SECTION ARE effective on passage and approval.

17 - END -

1 SENATE BILL NO. 423

2 INTRODUCED BY J. ESSMANN

3 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
6 AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING FOR
7 THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR
8 THERAPEUTIC USE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A
9 SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS
10 37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127,
11 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, AND 61-11-101, 69-1-114, AND 69-1-401, MCA;
12 REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206,
13 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 40] may be cited as the
18 "Montana Therapeutic Marijuana Act".

19 (2) The purpose of [sections 1 through 40] is to:

20 (a) provide legal protections to individuals with debilitating medical conditions who engage in the
21 therapeutic use of marijuana as provided in [sections 1 through 40] to alleviate the symptoms of their debilitating
22 medical conditions;

23 (b) allow for the possession, cultivation, manufacture, delivery, and transportation of marijuana as
24 permitted by [sections 1 through 40]; and

25 (c) create a framework for therapeutic use of marijuana that protects the health, welfare, and safety of
26 both the persons engaging in the therapeutic use of marijuana and the general public by:

27 (i) allowing individuals who provide the required application materials to obtain registry identification
28 cards;

29 (ii) allowing individuals to assist, without compensation, up to four registered cardholders with the
30 cultivation and manufacture of therapeutic marijuana;

- 1 (iii) providing for licensure of individuals, businesses, and organizations that are involved in the cultivation,
2 manufacture, delivery, transportation, and transfer of therapeutic marijuana or related products;
3 (iv) allowing certain licensees to be reimbursed for their costs; and
4 (v) establishing reporting requirements for production of therapeutic marijuana and sales and inspection
5 requirements for licensed premises.
6

7 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 40], unless the context clearly
8 requires otherwise, the following definitions apply:

9 (1) "Courier" means an individual or business that is licensed to transport and deliver therapeutic
10 marijuana or therapeutic marijuana-infused products from a licensed premises to a registered cardholder.

11 (2) "Debilitating medical condition" means:

12 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency
13 syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's
14 health status;

15 (b) cachexia or wasting syndrome;

16 (c) severe chronic pain that is documented by:

17 (i) the patient's primary care physician and by a specialist with expertise in the disease process that is
18 causing the pain; and

19 (ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to
20 the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

21 (d) intractable nausea or vomiting;

22 (e) epilepsy or an intractable seizure disorder;

23 (f) multiple sclerosis;

24 (g) Crohn's disease;

25 (h) painful peripheral neuropathy;

26 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

27 (j) admittance into hospice care in accordance with rules adopted by the department; or

28 (k) any other medical condition or treatment for a medical condition approved by the legislature after
29 reviewing recommendations of the advisory board provided for in [section 3].

30 (3) "Department" means the department of public health and human services.

(4) "Licensed premises" means the premises at which a therapeutic marijuana grower, a therapeutic marijuana-infused products manufacturer, or a registrant of a grower or manufacturer is authorized to cultivate, manufacture, or provide therapeutic marijuana or therapeutic marijuana-infused products.

(5) "Licensee" means a courier, personal production assistant, therapeutic marijuana grower, or therapeutic marijuana-infused products manufacturer that has received a license pursuant to [sections 17 through 40].

(6) "Limited access area" means a building, room, or other contiguous area on a licensed premises to which only persons licensed or registered by the state licensing authority pursuant to [sections 17 through 40] may have access.

(7) "Local government" means a county, a consolidated government, or an incorporated city or town.

(8) "Marijuana" has the meaning provided in 50-32-101.

(9) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(10) "Paraphernalia" has the meaning provided in 45-10-101.

(11) (a) "Personal production assistant" means an individual 18 years of age or older who is licensed pursuant to [sections 17 through 40] and who has agreed to assist a registered cardholder as allowed under [section 23].

(b) The term does not include the cardholder's primary care or referral physician.

(12) "Primary care physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the patient that has existed for at least 6 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed.

(13) "Qualifying patient" means a person who has been diagnosed by a physician or physicians as having a debilitating medical condition.

(14) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the ~~person~~ PHYSICIAN to whom a patient's primary care physician has referred the patient for physical examination and medical assessment.

(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical

1 condition who has received and maintains a valid registry identification card.

2 (16) "Registrant" means an individual who is registered by the state licensing authority for the purposes
3 of working for a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

4 (17) "Registry identification card" means a document issued by the department pursuant to [section 4]
5 that identifies an individual as a registered cardholder.

6 (18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

7 (b) An individual is not considered a resident for the purposes of [sections 1 through 40] if the individual:

8 (i) claims residence in another state or country for any purpose; or

9 (ii) is an absentee property owner paying property tax on property in Montana.

10 (19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less
11 than 12 inches in diameter.

12 (20) "Standard of care" means AT A MINIMUM:

13 (a) the following activities when undertaken by a patient's primary care physician OR REFERRAL PHYSICIAN
14 if the primary care physician OR REFERRAL PHYSICIAN is providing written certification for a patient with a debilitating
15 medical condition:

16 (i) obtaining the patient's medical history;

17 (ii) performing a relevant physical examination;

18 (iii) reviewing prior treatment and treatment response for the debilitating medical condition;

19 (iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

20 (v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
21 alternatives, potential adverse effects, and expected response to the recommended treatment;

22 (vi) monitoring the response to treatment and possible adverse effects; and

23 (vii) creating and maintaining patient records that remain with the physician; or

24 (b) the following activities undertaken by ~~a referral physician when the referral physician~~ THE SECOND
25 PHYSICIAN WHO is providing written certification FOR A MINOR OR A QUALIFYING PATIENT WHOSE DEBILITATING MEDICAL
26 CONDITION IS SEVERE CHRONIC PAIN:

27 (i) obtaining the patient's medical history;

28 (ii) reviewing prior treatment and treatment response for the debilitating medical condition;

29 (iii) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

30 and

1 (iv) creating and maintaining patient records that remain with the physician.

2 (21) "State licensing authority" means the ~~public service commission~~ DEPARTMENT OF LABOR AND INDUSTRY
3 provided for in ~~2-15-2602~~ 2-15-1701.

4 (22) "Therapeutic marijuana" means marijuana that is cultivated, manufactured, transferred, or used for
5 therapeutic use.

6 (23) "Therapeutic marijuana grower" means an organization that meets the requirements of [section 20]
7 and is licensed pursuant to [sections 17 through 40] to cultivate marijuana at a licensed premises.

8 (24) (a) "Therapeutic marijuana-infused product" means a product that contains therapeutic marijuana
9 and is intended for therapeutic use by means other than smoking.

10 (b) The term includes but is not limited to edible products, ointments, and tinctures.

11 (25) "Therapeutic marijuana-infused products manufacturer" means an organization that meets the
12 requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to manufacture therapeutic
13 marijuana-infused products.

14 (26) "Therapeutic use" means:

15 (a) for a registered cardholder, the possession, cultivation, manufacture, transportation, or use of
16 marijuana or paraphernalia by a registered cardholder to alleviate the symptoms or effects of the cardholder's
17 debilitating medical condition; and

18 (b) for a licensee, the cultivation, manufacture, transportation, or storage of therapeutic marijuana or the
19 possession and use of paraphernalia for the manufacture of therapeutic marijuana:

20 (i) as allowed by the applicable license; and

21 (ii) solely for use by a registered cardholder.

22 (27) "Written certification" means a statement signed by a physician stating that:

23 (a) the physician has completed a full assessment of the qualifying patient's medical history and current
24 medical condition;

25 (b) the assessment meets the standard of care;

26 (c) the qualifying patient has a debilitating medical condition; and

27 (d) the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for
28 the qualifying patient.

29
30 **NEW SECTION. Section 3. Advisory board -- membership -- duties.** (1) There is an advisory board

1 consisting of eight medical practitioners representing the fields of neurology, pain management, medical
2 oncology, psychiatry, infectious disease, family medicine OR INTERNAL MEDICINE, and ~~gynecology~~ OPHTHALMOLOGY.

3 (2) (a) Each advisory board member must be nationally board-certified in the member's area of specialty
4 and knowledgeable about the therapeutic use of marijuana.

5 (b) The governor shall appoint the members from a list of practitioners proposed by Montana
6 organizations representing physicians and health care facilities.

7 (3) The board shall meet two times a year to:

8 (a) review debilitating medical conditions previously approved by the legislature to determine whether
9 to recommend changes to the eligibility criteria for individuals applying under those conditions or to review new
10 scientific evidence pertaining to currently approved conditions, including information on the amount of therapeutic
11 marijuana allowed for approved conditions or the form in which the marijuana should be used;

12 (b) review and, if necessary, recommend increases or decreases to the quantity of marijuana that
13 therapeutic marijuana growers and registered cardholders may cultivate or manufacture in order to provide an
14 adequate supply for registered cardholders;

15 (c) recommend the manner of consumption or application of marijuana-infused products that may be
16 most appropriate for a particular debilitating medical condition; and

17 (d) review and recommend to the law and justice interim committee provided for in 5-5-226 additional
18 debilitating medical conditions for which the benefits of the use of therapeutic marijuana would likely outweigh
19 the risks, based on petitions submitted to the department for the addition of new debilitating medical conditions.

20 (4) Members of the board are entitled to be paid in an amount to be determined by the department, not
21 to exceed \$50 for each day in which a member is actually and necessarily engaged in the performance of board
22 duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while
23 performing board duties. The board's operational costs must be paid through fees, fines, and penalties paid
24 pursuant to [sections 1 through 16].

25
26 **NEW SECTION. Section 4. Registry identification cards -- minors -- exceptions -- ~~report~~ REPORTS**
27 **to legislature.** (1) The department shall establish and maintain a program for the issuance of registry
28 identification cards to Montana residents who meet the requirements of [sections 1 through 40].

29 (2) Except as provided in subsections (4) and (5), the department shall issue a registry identification card
30 to a qualifying patient who submits the following, in accordance with department rules:

1 (a) written certification that the person is a qualifying patient;

2 (b) for a qualifying patient whose medical condition is severe chronic pain, objective proof of the etiology
3 of the pain established by the results of diagnostic tests, including but not limited to x-rays, a computerized
4 tomography scan, or magnetic resonance imaging;

5 (c) an application fee or renewal fee;

6 (d) the name, address, and date of birth of the qualifying patient;

7 (e) proof of Montana residency;

8 (f) the name, street address, and telephone number of the qualifying patient's primary care physician
9 and referral physician, if any;

10 (g) a statement on a form prescribed by the department pledging not to divert marijuana to anyone who
11 is not allowed to possess marijuana pursuant to [sections 1 through 40];

12 (h) a statement indicating that the qualifying patient intends to:

13 (i) cultivate the qualifying patient's therapeutic marijuana; ~~or~~

14 (ii) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused
15 products manufacturer; OR

16 (III) BOTH CULTIVATE THERAPEUTIC MARIJUANA AND OBTAIN THERAPEUTIC MARIJUANA FROM A THERAPEUTIC
17 MARIJUANA GROWER OR A THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER;

18 (i) (i) the name, street address, and date of birth of the individual's personal production assistant, if any;

19 or

20 (ii) an application for approval to acquire therapeutic marijuana from a therapeutic marijuana grower or
21 therapeutic-marijuana infused products manufacturer, IF APPLICABLE.

22 (3) A registered cardholder may have only one personal production assistant if the cardholder chooses
23 to cultivate and manufacture therapeutic marijuana ~~rather than obtain the marijuana from a therapeutic marijuana~~
24 ~~grower or a therapeutic marijuana-infused products manufacturer.~~

25 (4) The department shall issue a registry identification card to a minor if the minor's custodial parent or
26 legal guardian with responsibility for health care decisions:

27 (a) submits the materials required under subsection (2);

28 (b) provides proof of legal guardianship and responsibility for health care decisions if the person is
29 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

30 (c) signs and submits a written statement that:

1 (i) two physicians have explained to the minor and to the minor's custodial parent or legal guardian with
2 responsibility for health care decisions the potential risks and benefits of the therapeutic use of marijuana; and

3 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

4 (A) consents to the therapeutic use of marijuana by the minor;

5 (B) agrees to serve as the minor's personal production assistant;

6 (C) agrees to control the acquisition of marijuana and the dosage and frequency of the therapeutic use
7 of marijuana by the minor;

8 (D) submits fingerprints to facilitate a finger print and background check by the department of justice and
9 the federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and
10 may not be licensed if the parent or legal guardian does not meet the requirements of [sections 1 through 40].

11 (E) pledges, on a form prescribed by the department, not to divert marijuana to anyone who is not
12 allowed to possess marijuana pursuant to [sections 1 through 40].

13 (5) The application for a minor must include written certification and the statements required under
14 [section 5] from:

15 (a) the primary care physician who is recommending marijuana for therapeutic use; and

16 (b) a second physician who has conducted a comprehensive review of the minor's medical record as
17 maintained by the minor's primary care physician and who is recommending marijuana for therapeutic use by the
18 minor.

19 (6) An individual may not be a registered cardholder if the individual is IN THE CUSTODY OF OR under the
20 supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court.

21 (7) (a) The department shall verify the information contained in an application or renewal submitted
22 pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the
23 application or renewal.

24 (b) The department may deny an application or renewal only:

25 (i) if the applicant did not provide the information required pursuant to this section;

26 (ii) if the department determines that the information was falsified;

27 (iii) if the applicant is not qualified to receive a registry identification card under the provisions of [sections
28 1 through 40]; or

29 (iv) for other reasons specified by the department by rule.

30 (c) Rejection of an application or renewal is considered a final department action, subject to judicial

1 review.

2 (8) The department shall issue a registry identification card with a unique identification number within
3 15 days of approving an application or renewal. Registry identification cards expire 1 year after the date of
4 issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of
5 time. A registry identification card must state:

6 (a) the name, street address, and date of birth of the registered cardholder;

7 (b) the name and street address of the primary care physician or referral physician, if any, who provided
8 the written certification for the cardholder;

9 (c) the date of issuance and expiration date of the registry identification card; and

10 (d) other information that the department may specify by rule.

11 (9) The department shall provide the state licensing authority with the name of each registered
12 cardholder who indicates on the application that the cardholder intends to:

13 (a) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused
14 products manufacturer; or

15 (b) use a personal production assistant.

16 (10) (a) A registered cardholder shall notify the department within 10 days of any change in the:

17 (i) cardholder's street address, physician, or personal production assistant;

18 (ii) status of the cardholder's debilitating medical condition.

19 (b) If a change occurs and is not reported to the department, the registry identification card is void.

20 (11) The department shall report biannually to the legislature the number of applications for registry
21 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
22 conditions of the cardholders, the number of registry identification cards revoked, the number of physicians
23 providing written certification for registered cardholders, and the number of written certifications each physician
24 has provided. The department may not provide any identifying information of cardholders or physicians.

25 [(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE, AS PROVIDED IN
26 37-3-203, ON THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PRACTICES IN PROVIDING
27 WRITTEN CERTIFICATION FOR THE THERAPEUTIC USE OF MARIJUANA.]

28

29 NEW SECTION. **Section 5. Written certification -- accompanying statements -- required**
30 **notification to board of medical examiners.** (1) The written certification provided by a physician must be made

1 on a form prescribed by the department and signed and dated by the physician. The form must include:

2 (a) the physician's name, license number, office address, and telephone number on file with the board
3 of medical examiners and the physician's BUSINESS e-mail address, IF ANY; and

4 (b) the qualifying patient's name, date of birth, and debilitating medical condition.

5 (2) A physician who is providing written certification for a qualifying patient 18 years of age or older or
6 who is the primary care provider for a minor applying for a registry identification card shall provide:

7 (a) a statement initialed by the physician that the physician:

8 (i) has a BONA FIDE professional relationship with the qualifying patient that has existed for at least 6
9 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or
10 assessed;

11 (ii) has assumed primary responsibility for providing management and routine care of the qualifying
12 patient's debilitating medical condition after conducting a comprehensive medical history and physical
13 examination that included a personal review of any medical records maintained by other treating physicians and
14 that may have included the qualifying patient's reaction and response to conventional medical therapies;

15 (iii) has reviewed all prescription and nonprescription medications and supplements used by the qualifying
16 patient and has considered the potential drug interaction with marijuana;

17 (iv) has explained the potential risks and benefits of the therapeutic use of marijuana to the qualifying
18 patient; and

19 (v) plans to continue to assess the patient and the patient's therapeutic use of marijuana during the
20 course of the physician-patient relationship;

21 (b) a statement that in the physician's professional opinion the potential benefits of the therapeutic use
22 of marijuana would likely outweigh the health risks for the qualifying patient; and

23 (c) an attestation that the information provided in the written certification and accompanying statements
24 is true and correct.

25 (3) A physician who is the second physician recommending marijuana for therapeutic use by a minor
26 or the second physician providing a written certification for a qualifying patient whose debilitating medical
27 condition includes severe chronic pain shall submit:

28 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
29 minor's medical records as maintained by the primary care physician or documented the qualifying patient's
30 severe chronic pain as required pursuant to [sections 1 through 40];

(b) a statement that in the physician's professional opinion, the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the minor or qualifying patient; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) (A) The department shall provide the board of medical examiners provided for in 2-15-1731 with the name of each physician, except a referral physician, who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether they meet the standard of care.

(B) THE PHYSICIAN WHOSE PRACTICES ARE UNDER REVIEW SHALL PAY THE COSTS OF THE BOARD'S REVIEW ACTIVITIES.

NEW SECTION. Section 6. Unlawful conduct by cardholder -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the cardholder's card for any purpose.

(2) ~~A violation of A REGISTERED CARDHOLDER WHO VIOLATES~~ [sections 1 through 16] is punishable by a fine not to exceed ~~\$10,000~~ \$500 or by imprisonment in a county jail for a term not to exceed ~~1-year~~ 6 MONTHS, or both, unless otherwise provided in [sections 1 through 16] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 7. Prohibitions on physician affiliation with therapeutic marijuana licensees. (1) (a) A physician may not:

(i) accept or solicit anything of value, including monetary remuneration, from a licensee or registrant or offer anything of value to a licensee or registrant;

(ii) offer a discount or any other thing of value to an individual who uses or agrees to use a particular licensee;

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where therapeutic marijuana is grown, manufactured, sold, or distributed; or

(iv) hold an economic interest in an enterprise engaged in the therapeutic use of marijuana if the

1 physician certifies the debilitating medical condition of an applicant for a registry identification card.

2 (b) This subsection (1) does not prevent a physician from accepting a fee for providing medical care to
3 a licensee or a registrant if the physician charges the licensee or registrant the same fee as the physician charges
4 other patients for providing a similar level of medical care.

5 (2) If the department has cause to believe that a physician has violated this section, has violated a
6 provision of rules adopted pursuant to [sections 1 through 40], or has not met the standard of care required under
7 [sections 1 through 40], the department may refer the matter to the board of medical examiners for review
8 pursuant to 37-1-308.

9 (3) A violation of this section constitutes unprofessional conduct as set out in 37-1-316. If the board of
10 medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority
11 to provide written certification for the therapeutic use of marijuana. The board of medical examiners shall notify
12 the department of the sanction.

13 (4) If the board of medical examiners believes a physician's practices may harm the public health, safety,
14 or welfare, the board may summarily restrict, as provided in 2-4-631, a physician's authority to provide written
15 certification for the therapeutic use of marijuana.

16
17 **NEW SECTION. Section 8. Local government authority to regulate.** (1) To protect the public health,
18 safety, or welfare, a local government may by ordinance or resolution regulate a therapeutic marijuana grower
19 or a therapeutic marijuana-infused products manufacturer that operates within the local government's
20 jurisdictional area. The regulations may include but are not limited to:

21 (a) restrictions on number and location;

22 (b) business licensing requirements;

23 (c) building codes and standards; and

24 (d) the inspection of businesses to ensure compliance with any sanitary requirements established by
25 the state licensing authority.

26 (2) An incorporated city or town may adopt an ordinance or resolution that prohibits the cultivation or
27 manufacture of therapeutic marijuana by a therapeutic marijuana grower or a therapeutic marijuana-infused
28 products manufacturer within its jurisdictional area.

29
30 **NEW SECTION. Section 9. Health care facility procedures for patients who are registered**

1 **cardholders.** (1) Except for hospices that allow the therapeutic use of marijuana as provided in [section 14], a
2 health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who
3 is a registered cardholder has therapeutic marijuana in the patient's possession upon admission to the health care
4 facility:

5 (a) require the patient to remove the therapeutic marijuana from the premises before the patient is
6 admitted, if the patient is able to do so;

7 (b) make a reasonable effort to contact the patient's personal production assistant or a courier; or

8 (c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

9 (2) A personal production assistant or courier contacted by a health care facility shall remove the
10 therapeutic marijuana without charge to the health care facility and deliver it to the cardholder's residence or to
11 a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer for storage until the
12 patient is discharged from the facility. The personal production assistant or courier may return the therapeutic
13 marijuana to the cardholder upon the cardholder's discharge from the facility.

14 (3) A law enforcement agency contacted by a health care facility shall respond by removing and storing
15 the therapeutic marijuana until the patient is discharged from the facility.

16 (4) If the therapeutic marijuana is being held by a law enforcement agency, the patient may pick up the
17 therapeutic marijuana upon discharge from the hospital at no cost to the patient.

18 (5) A health care facility may not be charged for costs related to removal of therapeutic marijuana from
19 the facility's premises.

20
21 **NEW SECTION. Section 10. Therapeutic use of marijuana -- limits on amount -- presumption of**
22 **therapeutic use.** (1) (a) Marijuana for therapeutic use may be cultivated or manufactured by:

23 (i) a registered cardholder who has indicated to the department that the cardholder will grow therapeutic
24 marijuana for personal use at the cardholder's residence;

25 (ii) a therapeutic marijuana grower; or

26 (iii) a therapeutic marijuana-infused products manufacturer that has also obtained a therapeutic marijuana
27 grower license.

28 (b) A cardholder who lives in a rental property must have the landlord's WRITTEN permission to cultivate
29 or manufacture therapeutic marijuana in or on the rental property.

30 (2) (a) A registered cardholder may possess up to 4 mature marijuana plants, 12 seedlings, and a

1 maximum of 2 ounces of usable marijuana. EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE CARDHOLDER SHALL
2 KEEP THE MARIJUANA at the cardholder's residence.

3 (b) A registered cardholder may not be in possession of more than 1 ounce OF THE CARDHOLDER'S USABLE
4 MARIJUANA when the cardholder is outside of the cardholder's residence.

5 (3) A therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer may provide
6 no more than 2 ounces of usable marijuana or its equivalent in an infused product to a registered cardholder
7 during a 30-day period. The licensee shall maintain records of transactions with cardholders to verify that the
8 licensee has met the requirements of this section.

9 (4) Marijuana for therapeutic use by registered cardholders must be grown and manufactured in
10 Montana.

11 (5) (a) A registered cardholder or licensee is presumed to be engaged in the therapeutic use of
12 marijuana if the cardholder or licensee:

13 (i) is in possession of a registry identification card or an appropriate license; and

14 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections
15 1 through 40].

16 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
17 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

18
19 **NEW SECTION.** **Section 11. Confidentiality of registry information -- disclosure.** (1) The
20 department shall maintain a confidential list of individuals to whom the department has issued registry
21 identification cards. Individual names and other identifying information on the list must be confidential and are not
22 subject to disclosure, except to:

23 (a) authorized employees of the department and the state licensing authority as necessary to perform
24 official duties of the department or state licensing authority; or

25 (b) authorized employees of state or local government agencies, including law enforcement agencies,
26 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

27 (2) ~~A~~ EXCEPT AS PROVIDED IN 37-3-203, A person, including an employee or official of the department
28 or other state or local government agency, commits the offense of disclosure of confidential information relating
29 to therapeutic use of marijuana if the person knowingly or purposely discloses confidential information in violation
30 of this section.

(3) A person convicted of disclosure of confidential information relating to therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

NEW SECTION. Section 12. Legal protections for therapeutic use. (1) ~~An~~ EXCEPT AS PROVIDED IN [SECTION 14] AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7), AN individual who possesses a registry identification card issued pursuant to [section 4] or a person licensed or registered pursuant to [sections 17 through 40] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder acquires, possesses, cultivates, or manufactures marijuana not in excess of the amounts allowed under [section 10];

(b) the registered cardholder uses therapeutic marijuana; or

(c) the licensee or registrant undertakes the activities allowed under the applicable license or registration.

(2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for the therapeutic use of marijuana to qualifying patients.

(3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) an individual's therapeutic use of marijuana impairs the individual's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 40].

(4) An interest in or right to property that is possessed, owned, or used in connection with the therapeutic use of marijuana or acts incidental to therapeutic use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the therapeutic use of marijuana as permitted under [sections 1 through 40].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of the therapeutic use of marijuana if the individual is in possession of or is using marijuana and is not a

1 registered cardholder.

2 (6) Except as provided in [section 37], possession of or application for a registry identification card or
3 a license does not alone constitute probable cause to search the individual or the property of the individual or
4 entity possessing or applying for the registry identification card, license, or registration or otherwise subject the
5 individual or property of the individual or entity possessing or applying for the card or license to inspection by any
6 governmental agency, including a law enforcement agency.

7 (7) THE PROVISIONS OF SUBSECTION (1) RELATING TO PROTECTION FROM ARREST OR PROSECUTION DO NOT
8 APPLY TO AN INDIVIDUAL UNLESS THE INDIVIDUAL HAS OBTAINED A REGISTRY IDENTIFICATION CARD, LICENSE, OR
9 REGISTRATION PRIOR TO AN ARREST OR THE FILING OF A CRIMINAL CHARGE. IT IS NOT A DEFENSE TO A CRIMINAL CHARGE
10 THAT AN INDIVIDUAL OBTAINS A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION AFTER AN ARREST OR THE
11 FILING OF A CRIMINAL CHARGE.

12

13 **NEW SECTION. Section 13. Registry card or license to be carried and exhibited on demand --**
14 **photo identification required.** A registered cardholder or an individual licensed or registered pursuant to
15 [sections 1 through 40] shall have the cardholder's registry identification card or the individual's license or
16 registration in the individual's immediate possession at all times. The individual shall display the registry
17 identification card, license, or registration and a valid photo identification upon demand of a law enforcement
18 officer, justice of the peace, or city or municipal judge.

19

20 **NEW SECTION. Section 14. Limitations of therapeutic marijuana act -- penalties.** (1) [Sections 1
21 through 40] do not permit:

22 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
23 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana;

24 (b) the use of marijuana by a licensee;

25 (c) except as provided in subsection (3), the therapeutic use of marijuana:

26 (i) in a health care facility as defined in 50-5-101;

27 (ii) in a school or a postsecondary school as defined in 20-5-402;

28 (iii) on or in any property owned by a school district or a postsecondary school; or

29 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
30 used for school-related purposes; or

(d) the smoking of marijuana by a registered cardholder:

(i) in a school bus or other form of public transportation;

(ii) in a correctional facility;

(iii) at a public park, public beach, public recreation center, or youth center;

(iv) in plain view of or in a place open to the general public; or

(v) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A cardholder or licensee may not cultivate or manufacture therapeutic marijuana in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows therapeutic use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 40] may be construed to require:

(a) a government medical assistance program ~~or private health insurer~~, A GROUP BENEFIT PLAN THAT IS COVERED BY THE PROVISIONS OF TITLE 2, CHAPTER 18, AN INSURER COVERED BY THE PROVISIONS OF TITLE 33, OR AN INSURER AS DEFINED IN 39-71-116 to reimburse a person for costs associated with the therapeutic use of marijuana; or

(b) an employer to accommodate the therapeutic use of marijuana ~~in any workplace~~.

(5) NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO:

(A) PROHIBIT AN EMPLOYER FROM INCLUDING IN ANY CONTRACT A PROVISION PROHIBITING THE THERAPEUTIC USE OF MARIJUANA; OR

(B) PERMIT A CAUSE OF ACTION AGAINST AN EMPLOYER FOR WRONGFUL DISCHARGE PURSUANT TO 39-2-904 OR DISCRIMINATION PURSUANT TO 49-1-102.

~~(5)(6)~~ Nothing in [sections 1 through 40] may be construed to allow a licensee or registrant to use marijuana or to prevent criminal prosecution of a licensee or registrant who uses marijuana or paraphernalia for personal use.

~~(6)(7)~~ (a) An individual who violates subsection (1)(a) is subject to a revocation of the individual's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

1 (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

2 (ii) in 61-8-410 for a violation of 61-8-410.

3 (b) If an individual's registry identification card is subject to renewal during the revocation period, the
4 individual may not renew the card until the full revocation period has elapsed. The card subsequently may be
5 renewed only if the individual submits all materials required for renewal.

6
7 **NEW SECTION. Section 15. Fraudulent representation of therapeutic use of marijuana -- penalty.**

8 (1) A person commits the offense of fraudulent representation of therapeutic use of marijuana if the person
9 knowingly or purposely fabricates or misrepresents to a law enforcement officer a registry identification card,
10 license, or registration issued pursuant to [sections 1 through 40].

11 (2) A person convicted of fraudulent representation of therapeutic use of marijuana shall be fined not to
12 exceed ~~\$1,000~~ **\$500** or be imprisoned in the county jail for a term not to exceed ~~1 year~~ **6 MONTHS**, or both.

13
14 **NEW SECTION. Section 16. Rulemaking -- fees.** (1) The department shall adopt rules necessary for
15 the implementation and administration of [sections 1 through 16]. The rules must include but are not limited to:

16 (a) the manner in which the department will consider applications for registry identification cards for
17 qualifying patients and renewal of registry identification cards for registered cardholders;

18 (b) the acceptable forms of proof of Montana residency;

19 (c) the circumstances under which a patient's admittance into hospice care will qualify as a debilitating
20 medical condition;

21 (d) the diagnostic tests allowable as proof of a debilitating medical condition involving severe chronic
22 pain;

23 (e) the circumstances under which the department will notify the board of medical examiners of potential
24 violations of [section 7]; and

25 (f) other rules necessary to implement the purposes of the regulation of therapeutic marijuana.

26 (2) The department's rules must establish application and renewal fees that generate revenue sufficient
27 to offset all expenses of implementing and administering [sections 1 through 16]. The department may vary the
28 application and renewal fees along a sliding scale that accounts for an applicant's income.

29
30 **NEW SECTION. Section 17. State licensing authority.** (1) The state licensing authority may hire

1 employees to carry out the responsibilities assigned under [sections 17 through 40]. The employees are
2 employees of the ~~public service commission~~ DEPARTMENT OF LABOR AND INDUSTRY.

3 (2) The operational costs of the state licensing authority related to carrying out its responsibilities under
4 [sections 17 through 40] must be fully funded by fees paid by licensees and registrants. The costs include but
5 are not limited to the costs of the authority's licensing, inspection, and investigation duties and operation of the
6 hotline provided for in [section 39].

7
8 **NEW SECTION. Section 18. State licensing authority -- powers and duties -- rulemaking authority.**

9 (1) (A) THE STATE LICENSING AUTHORITY SHALL DETERMINE THE NUMBER OF LICENSES TO BE ISSUED FOR THERAPEUTIC
10 MARIJUANA GROWERS, THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURERS, AND COURIERS BASED UPON
11 AN INITIAL REVIEW AND PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS WHO HAVE INDICATED TO THE
12 DEPARTMENT THAT THEY PLAN TO OBTAIN THERAPEUTIC MARIJUANA FROM A GROWER OR THERAPEUTIC
13 MARIJUANA-INFUSED PRODUCTS MANUFACTURER.

14 (B) BASED UPON ITS INITIAL REVIEW AND PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS
15 AND THE RESULTING NEED FOR THERAPEUTIC MARIJUANA, THE STATE LICENSING AUTHORITY MAY:

16 (I) ISSUE TEMPORARY LICENSES; AND

17 (II) REDUCE THE NUMBER OF PLANTS, SEEDLINGS, CUTTINGS, AND CLONES AND THE INVENTORY OF USABLE
18 MARIJUANA A GROWER MAY CULTIVATE, MANUFACTURE, OR POSSESS.

19 ~~(1)~~(2) The state licensing authority shall:

20 (a) grant or refuse state licenses for the cultivation, manufacture, distribution, transportation, and
21 provision of therapeutic marijuana as provided by law;

22 (b) suspend, restrict, or revoke licenses upon violation of [sections 1 through 40] or a rule adopted
23 pursuant to [sections 1 through 40];

24 (c) impose fines and penalties authorized by [sections 17 through 40] or a rule adopted pursuant to
25 [sections 17 through 40];

26 (d) take any action with respect to a registrant that it may take with respect to a licensee;

27 (e) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and
28 control of the cultivation, manufacture, distribution, transportation, and provision of therapeutic marijuana and for
29 the enforcement of [sections 1 through 40];

30 (f) hear and determine at a public hearing:

1 (i) an appeal of a state license denial; or

2 (ii) a complaint against a licensee;

3 (g) administer oaths and issue subpoenas to require the presence of persons and the production of
4 materials necessary for a hearing held pursuant to this section;

5 (h) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of
6 therapeutic marijuana provided to a particular individual or any other records that are exempt from public
7 inspection pursuant to state law;

8 (i) develop the forms, licenses, identification cards, and applications necessary for the administration of
9 [sections 17 through 40]; and

10 (j) report annually to the legislature the number of applications received and granted for each type of
11 license, the geographic locations of licensees, the number of registered cardholders served by each licensee,
12 and the number and types of licenses revoked by the state licensing authority. The report may not provide any
13 individually identifying information about licensees.

14 ~~(2)(3)~~ A hearing held pursuant to this section must comply with the provisions of Title 2, chapter 4.

15 ~~(3)(4)~~ The state licensing authority may adopt rules to carry out its duties and responsibilities, including
16 but not limited to rules related to:

17 (a) licensing procedures, including:

18 (i) procedures for applications for initial licenses, renewals, and reinstatements;

19 (ii) procedures for approval, denial, or suspension of a license;

20 (iii) provisions for fines and license restrictions or revocations;

21 (iv) the procedure and fees for submitting fingerprints for background checks; and

22 (v) the fees to be charged for license applications, license issuance, license renewals or reinstatements,
23 applications to change locations, and applications to transfer ownership. The fees must cover the operational
24 costs of the state licensing authority.

25 (b) the duties of officers and employees of the state licensing authority;

26 (c) requirements for inspections, investigations, searches, and seizures;

27 (d) penalties for violation of the provisions of [sections 17 through 40];

28 (e) prohibitions on misrepresentation and unfair practices;

29 (f) control of informational and product displays on licensed premises;

30 (g) development of individual identification cards for officers, managers, contractors, employees, and

1 other support staff of entities licensed or registered by the state licensing authority pursuant to [sections 17
2 through 40];

3 (h) security requirements for a licensed premises including, at a minimum, the lighting, physical security,
4 video, and alarm requirements and other minimum procedures for internal control as determined necessary for
5 the proper administration and enforcement of [sections 1 through 40];

6 (i) requirements for reporting changes, alterations, or modifications to a licensed premises;

7 (j) the storage of and transportation of therapeutic marijuana;

8 (k) sanitary requirements for therapeutic marijuana growers and for therapeutic marijuana-infused
9 products manufacturers;

10 (l) the acceptable forms of photo identification that a licensee may accept when verifying a transaction;

11 (m) labeling standards;

12 (n) records to be kept by licensees and the required availability of the records, including the availability
13 of information ensuring payment of applicable taxes;

14 (o) the sharing of information with other state agencies and with state and local law enforcement
15 agencies;

16 (p) the use of genetic markers, if feasible, to verify the source of marijuana in a registered cardholder's
17 possession or confiscated by a law enforcement agency; and

18 (q) other rules necessary to carry out the provisions of [sections 1 through 40].

19 ~~(4)(5)~~ Nothing in [sections 1 through 40] may be construed to limit a law enforcement agency's ability
20 to investigate unlawful activity in relation to a licensee or registrant. A law enforcement agency may run a
21 Montana criminal justice information network criminal history record check of a licensee or a registrant during an
22 investigation of unlawful activity related to therapeutic marijuana.

23
24 **NEW SECTION. Section 19. Requirements for provision of therapeutic marijuana.** (1) The state
25 licensing authority shall establish by rule a process by which registered cardholders who plan to obtain
26 therapeutic marijuana from a therapeutic marijuana grower or therapeutic marijuana-infused products
27 manufacturer are provided with information about the grower or manufacturer from which the therapeutic
28 marijuana may be obtained.

29 (2) A registered cardholder may not obtain therapeutic marijuana directly from a therapeutic marijuana
30 grower or therapeutic marijuana-infused product manufacturer.

1 (3) The rules must include but are not limited to:

2 (a) the use of a courier to transport and deliver therapeutic marijuana;

3 (b) the manner in which licensees will ensure that therapeutic marijuana is provided only to registered
4 cardholders; and

5 (c) the procedures a licensee shall follow if the licensee has reasonable cause to believe an individual
6 is using a fraudulent registry identification card in an effort to obtain therapeutic marijuana.

7 (4) A licensee may provide ~~a small~~ AN amount of its therapeutic marijuana or therapeutic
8 marijuana-infused product for testing to a laboratory that is registered pursuant to rules adopted by the state
9 licensing authority pursuant to [sections 1 through 40]. THE STATE LICENSING AUTHORITY MAY DETERMINE BY RULE
10 THE AMOUNT OF THERAPEUTIC MARIJUANA THAT MAY BE PROVIDED FOR TESTING.

11 (5) Therapeutic marijuana and marijuana-infused products must be labeled with a list of all chemical
12 additives that were used in the cultivation and production of the therapeutic marijuana or marijuana-infused
13 product, including but not limited to nonorganic pesticides, herbicides, and fertilizers.

14
15 **NEW SECTION. Section 20. Organizations eligible for certain licenses -- requirements.** (1) To
16 qualify for licensure as a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer,
17 an applicant must be an organization that is formed or incorporated with a five-member structure of control and
18 that operates the licensed activities on a reimbursement-of-costs basis and not for the purposes of earning a
19 profit.

20 (2) An applicant under this section shall provide the state licensing authority with:

21 (a) proof of the organization's structure of control;

22 (b) a list of all individuals:

23 (i) with direct or indirect authority over the management policies of the facility; and

24 (ii) having a 5% or greater ownership in the licensed premises, whether the ownership is direct or indirect
25 and is in land, buildings, or other materials. The information must include owners of any entity that owns all or
26 part of the land.

27 (c) a brief business plan showing how the organization will fund operations during the first 2 years of
28 licensing, including the funding sources to be used;

29 (d) a description of the facility that will be used for the production of therapeutic marijuana; and

30 (e) other information as required by the state licensing authority.

1
2 **NEW SECTION. Section 21. Classes of licenses -- disclosure -- confidentiality.** (1) The state
3 licensing authority may issue:

- 4 (a) a courier license;
5 (b) a personal production assistant license;
6 (c) a therapeutic marijuana grower license;
7 (d) a therapeutic marijuana-infused products manufacturer license; and
8 (e) registrations for A LABORATORY AS ALLOWED UNDER [SECTION 19] AND FOR managers, operators,
9 employees, contractors, and other support staff employed by, working in, or having access to a limited access
10 area of a licensed premises.

11 (2) The state licensing authority may take any action with respect to a registrant pursuant to [sections
12 17 through 40] that it may take with a licensee.

13 (3) The state licensing authority shall provide each appropriate local law enforcement agency with the
14 name and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose
15 the information to authorized employees of the agency as necessary to verify that a therapeutic marijuana
16 operation is licensed and is in compliance with the provisions of [sections 17 through 40].

17
18 **NEW SECTION. Section 22. Couriers -- requirements -- allowable activities.** (1) The state licensing
19 authority may issue a courier license to an individual or business to transport therapeutic marijuana or therapeutic
20 marijuana-infused products from a licensed therapeutic marijuana grower or therapeutic marijuana-infused
21 products manufacturer to a registered cardholder OR FROM A GROWER TO A MANUFACTURER.

22 (2) An applicant for a courier license shall:

- 23 (a) undergo the licensing procedures established in [section 26]; and
24 (b) submit application materials as required by the state licensing authority, including but not limited to
25 a statement acknowledging that possession of the license does not allow the person to engage in the use of
26 therapeutic marijuana or paraphernalia and agreeing not to divert therapeutic marijuana to anyone who is not
27 allowed to possess marijuana pursuant to [sections 1 through 40].

28 (3) A courier shall contract with the therapeutic marijuana grower or therapeutic marijuana-infused
29 products manufacturer and may be reimbursed at a rate established by the state licensing authority.

30 (4) Before a courier transports or delivers therapeutic marijuana, the courier shall notify the local law

1 enforcement agencies having jurisdiction in the areas where the courier will obtain and deliver the therapeutic
2 marijuana. The courier shall specify the licensee from whom the courier is obtaining therapeutic marijuana and
3 the registered cardholder OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER to whom the courier is
4 delivering the therapeutic marijuana.

5 (5) The state licensing authority may adopt rules relating to the amount of therapeutic marijuana that a
6 courier may possess and transport at any given time.

7 (6) The state licensing authority may grant a courier license to a therapeutic marijuana grower or a
8 therapeutic marijuana-infused products manufacturer under exceptional circumstances as established by rule.
9 Exceptional circumstances include but are not limited to the proximity of registered cardholders to a therapeutic
10 marijuana grower or infused products manufacturer.

11
12 **NEWSECTION. Section 23. Personal production assistants -- requirements -- allowable activities.**

13 (1) The state licensing authority shall issue a license to an individual who is named as a personal production
14 assistant in a registered cardholder's approved application if the individual:

15 (a) registers the individual's street address with the state licensing authority;

16 (b) signs a statement:

17 (i) agreeing to:

18 (A) assist in cultivating or manufacturing therapeutic marijuana only for registered cardholders who have
19 named the applicant as their personal production assistant;

20 (B) transport therapeutic marijuana only as allowed in [section 9]; and

21 (C) notify the state licensing authority and other regulatory entities within 10 days of any change in the
22 individual's street address or in the street address where the therapeutic marijuana is cultivated or manufactured;
23 and

24 (ii) acknowledging that the individual may not engage in the use of therapeutic marijuana or use
25 paraphernalia for any purpose other than cultivating or manufacturing marijuana for therapeutic use by a
26 registered cardholder; and

27 (iii) pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to
28 [sections 1 through 40];

29 (c) undergoes the licensing procedures established in [section 26]; and

30 (d) is not prohibited from licensure under the provisions of [section 27].

(2) An individual may serve as a personal production assistant for no more than four registered cardholders unless the state licensing authority approves a personal production assistant to serve more than four patients because of exceptional circumstances. Exceptional circumstances include but are not limited to the registered cardholder's proximity to a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

(3) A personal production assistant may not:

(a) receive compensation for activities allowed under [sections 1 through 40];

(b) hold any other license issued under [sections 17 through 40];

(c) delegate to another person the personal production assistant's authority to assist in the production of therapeutic marijuana for a cardholder or engage others to assist in the production of therapeutic marijuana for a cardholder; or

(d) cultivate or manufacture therapeutic marijuana at a location other than the residence of the registered cardholder.

(4) A personal production assistant shall maintain at all times a list of the registered cardholders who have named the individual as their personal production assistant. The list must include the registry identification card number of each patient and must be provided to a law enforcement agency upon request.

NEW SECTION. Section 24. Therapeutic marijuana grower -- requirements -- allowable activities.

(1) An organization licensed as a therapeutic marijuana grower shall cultivate marijuana at a licensed premises.

(2) A therapeutic marijuana grower shall:

(a) limit its therapeutic marijuana production to:

(i) 95 mature plants; and

(ii) the number of seedlings, cuttings, and clones and inventory of usable marijuana set by the state licensing authority by rule; and

(b) submit to the state licensing authority an acknowledgment that it will not exceed allowable production limits.

(3) A therapeutic marijuana grower may:

(a) sell marijuana to a therapeutic marijuana-infused products manufacturer as allowed by the state licensing authority; ~~and~~

(b) contract with a courier to deliver therapeutic marijuana to a registered cardholder OR THERAPEUTIC

1 MARIJUANA-INFUSED PRODUCTS MANUFACTURER; AND

2 (C) TRANSFER THERAPEUTIC MARIJUANA TO ANOTHER THERAPEUTIC MARIJUANA GROWER AS PROVIDED BY RULE.

3 (4) A therapeutic marijuana grower may not:

4 ~~—— (a) transfer therapeutic marijuana to another grower; or~~

5 ~~—— (b) conduct transactions directly with a registered cardholder at the therapeutic marijuana grower's~~
6 ~~licensed premises.~~

7 (5) Therapeutic marijuana may not be used in any form on the licensed premises.

8

9 NEW SECTION. Section 25. Therapeutic marijuana-infused products manufacturer -- allowable

10 activities. (1) An organization licensed as a therapeutic marijuana-infused products manufacturer shall:

11 (a) prepare therapeutic marijuana-infused products on a licensed premises that is used exclusively for
12 the manufacture and preparation of therapeutic marijuana-infused products;

13 (b) use equipment that is used exclusively for the manufacture and preparation of therapeutic
14 marijuana-infused products; and

15 (c) if it does not have a therapeutic marijuana grower license, execute a written agreement or contract
16 with a therapeutic marijuana grower that states at a minimum:

17 (i) the total amount of therapeutic marijuana to be obtained from the therapeutic marijuana grower and
18 used in the manufacturing process; and

19 (ii) the total amount of therapeutic marijuana-infused products to be manufactured from the therapeutic
20 marijuana obtained from the therapeutic marijuana grower.

21 (2) All licensed premises on which therapeutic marijuana-infused products are manufactured must meet:

22 (a) the sanitary standards for therapeutic marijuana-infused product preparation adopted by the state
23 licensing authority; and

24 (b) any applicable standards set by a local board of health for a food service establishment as defined
25 in 50-50-102.

26 (3) The state licensing authority shall determine the maximum amount and forms of marijuana that:

27 (A) a therapeutic marijuana-infused products manufacturer may obtain from a therapeutic marijuana
28 grower; OR

29 (B) A THERAPEUTIC MARIJUANA GROWER OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY
30 PROVIDE TO A REGISTERED CARDHOLDER WHO IS ALSO CULTIVATING OR MANUFACTURING THERAPEUTIC MARIJUANA FOR

1 THE CARDHOLDER'S USE.

2 (4) A therapeutic marijuana-infused product must be prepackaged and labeled in accordance with rules
3 adopted by the state licensing authority to indicate at a minimum that:

4 (a) the product contains therapeutic marijuana;

5 (b) the product is manufactured without any regulatory oversight for efficacy; and

6 (c) health risks may be associated with the consumption or use of the product.

7 (5) Therapeutic marijuana and therapeutic marijuana-infused products may not be consumed on a
8 licensed premises.

9 (6) A therapeutic marijuana-infused products manufacturer that also has a therapeutic marijuana grower
10 license may use the marijuana from the licensed premises affiliated with its grower license only for the purposes
11 of making therapeutic marijuana-infused products at its manufacturing premises.

12 (7) Therapeutic marijuana-infused products may not be considered a food or drug for the purposes of
13 Title 50, chapter 31.

14

15 NEW SECTION. **Section 26. Licensing procedures -- background checks.** (1) An applicant for a
16 license or registration shall submit the following, in accordance with rules adopted by the state licensing authority:

17 (a) the name and street address of the applicant;

18 (b) the names and street addresses of the officers, directors, or managers involved with the applicant;

19 (c) the street address or physical description, if no street address is available, where the applicant's
20 facility will be located;

21 (d) application and licensing fees as established by the state licensing authority in rule; and

22 (e) any other information required by the state licensing authority.

23 (2) Payment of the fee and submission of an application do not create an entitlement to receive a license
24 or a registration.

25 (3) (a) An applicant shall submit fingerprints to facilitate a fingerprint and background check by the
26 department of justice and the federal bureau of investigation.

27 (b) The state licensing authority may acquire a name-based criminal history record check for an
28 applicant, licensee, or registrant who has twice submitted to a fingerprint-based criminal history record check and
29 whose fingerprints are unclassifiable.

30 (4) The state licensing authority shall use the information resulting from a criminal history record check

1 conducted under this section to investigate and determine whether an applicant is qualified to hold a state license
2 or registration pursuant to [sections 17 through 40]. The state licensing authority may verify any information an
3 applicant is required to submit.

4 (5) (a) Except as provided in subsection (6)(b), a license or registration issued pursuant to this section
5 is valid for 2 years from the date of issuance unless revoked or suspended pursuant to [section 36 or 38].

6 (b) A personal production assistant license is valid for:

7 (i) the same period of time as the registry identification cards for the registered cardholders who have
8 named the individual as their personal production assistant; or

9 (ii) a maximum of 2 years if the registry identification card of at least one of the registered cardholders
10 who have named the individual as their personal production assistant would expire more than 2 years after the
11 individual was first licensed.

12 (6) Each license or registration issued under [sections 17 through 40] is separate and distinct. A licensee
13 or registrant may not:

14 (a) exercise any of the privileges granted under a license or registration other than the license or
15 registration that the licensee or registrant holds; or

16 (b) allow another person to exercise the privileges granted under the license or registration.

17 (7) (a) A licensee shall notify the state licensing authority in writing of the name, street address, and date
18 of birth of a new officer, manager, or employee before the new officer, manager, or employee begins working
19 at, managing, or being associated with the licensee.

20 (b) Before the individual may begin the association with the licensee, the individual shall:

21 (i) submit fingerprints to facilitate a fingerprint and background check by the department of justice and
22 the federal bureau of investigation; and

23 (ii) obtain the identification required by the state licensing authority.

24
25 **NEW SECTION. Section 27. Persons prohibited as licensees.** The state licensing authority may not
26 issue a license to:

27 (1) an individual with a felony conviction;

28 (2) a licensed physician providing written certification for the therapeutic use of marijuana;

29 (3) an individual WHO IS IN THE CUSTODY OF OR under the supervision of the department of corrections,
30 A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court;

(4) a licensee who, during a period of licensure or at the time of application, has failed to:

(a) pay any taxes, interest, or penalties due;

(b) pay a judgment due to a government agency;

(c) stay out of default on a government-issued student loan;

(d) pay child support; or

(e) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(5) a person who employs an individual who has not passed a criminal history record check;

(6) a peace officer, as defined in 45-2-101;

(7) an officer or employee of the state licensing authority;

(8) a person whose authority for a license of a different class has been revoked by the state licensing authority;

(9) a person for a license for a location that is currently licensed pursuant to 50-57-201 as an establishment or a retail food establishment; or

(10) an individual who has not been a resident of Montana for at least 5 years prior to the date of the person's application.

NEW SECTION. Section 28. Denial of license. (1) The state licensing authority shall deny a license to an applicant or licensee if:

(a) the premises on which the applicant proposes to conduct operations do not meet the requirements of [sections 1 through 40];

(b) the applicant does not meet or fails to comply with any of the terms, conditions, or provisions of [sections 1 through 40] or any rules adopted by the state licensing authority;

(c) the applicant fails to comply with any special terms or conditions that were placed on its license; or

(d) the licensed premises has been operated in a manner that adversely affects the public health or welfare or the safety of the community in which the licensed premises is located.

(2) An applicant who is denied a license pursuant to subsection (1) is entitled to a hearing pursuant to Title 2, chapter 4. The state licensing authority shall provide written notice of the reasons for denial at least 15 days before the hearing.

1 **NEW SECTION. Section 29. Restrictions applicable to new licenses -- local government authority.**

2 (1) The state licensing authority may not accept or approve an application for a license:

3 (a) until it is established that the applicant is or will be entitled to possession of the premises through a
4 lease, rental agreement, or other arrangement for possession or by virtue of ownership of the premises;

5 (b) for a location in an area where the cultivation, manufacture, and provision of therapeutic marijuana
6 as contemplated is not permitted under the applicable local government zoning laws; or

7 (c) if the building in which therapeutic marijuana is to be cultivated or manufactured is located within 2,000
8 feet of a school, a family or group day-care home as defined in 52-2-703, an alcohol or drug treatment facility,
9 or the principal campus of a postsecondary school or seminary. The distance must be measured in a straight line
10 from the nearest property line of the land used for a school, day-care home, alcohol or drug treatment center,
11 campus, or seminary to the nearest portion of the building to be used by the applicant.

12 (2) A local government may by ordinance or resolution vary the distance restrictions imposed by this
13 section or may eliminate one or more types of schools, campuses, or facilities from the application of a distance
14 restriction.

15
16 **NEW SECTION. Section 30. Licenses -- contents and display.** (1) A license issued pursuant to
17 [sections 17 through 40] must specify the date of issuance, the period of licensure, the name of the licensee, and
18 the premises that is licensed.

19 (2) The license must be conspicuously displayed at all times at the premises for which it is issued.

20 (3) The licensee shall at all times possess and maintain possession of the premises for which the license
21 is issued. Possession may be by ownership, lease, rental, or other arrangement.

22
23 **NEW SECTION. Section 31. Cash transactions prohibited.** (1) Cash transactions related to
24 therapeutic marijuana are prohibited.

25 (2) A licensee shall retain all documents related to transactions involving therapeutic marijuana, including
26 documents verifying the type of payment used for the transaction.

27 (3) A licensee shall make all documents related to transactions available to the state licensing authority
28 for inspection upon request.

29 (4) This section does not prohibit the use of checks, money orders, prepaid cards, debit cards, or credit
30 cards to reimburse licensees for costs.

1

2 **NEW SECTION. Section 32. Transfer of ownership -- change of location or manager.** (1) A
3 therapeutic marijuana grower license or therapeutic marijuana-infused manufacturer license may be transferred
4 to another organization upon application to the state licensing authority on forms prepared and furnished by the
5 state licensing authority. In determining whether to permit a transfer of ownership, the state licensing authority
6 shall consider the requirements of [sections 17 through 40] and rules adopted pursuant to [sections 17 through
7 40].

8 (2) A personal production assistant license or courier license is not transferable.

9 (3) A licensee shall report a transfer or change of ownership to the state licensing authority 30 days
10 before a transfer or change of ownership occurs.

11 (4) A report is required for transfers of capital stock of any corporation.

12 (5) Upon approval from the state licensing authority, a licensee may move the licensee's permanent
13 location to any place in the same city, town, or county for which the license was originally granted. Before granting
14 the request, the state licensing authority shall consider whether the proposed change of location would conform
15 with city, town, or county zoning requirements or regulatory decisions made pursuant to [section 8].

16 (6) A licensee shall employ a separate and distinct manager on the premises. The licensee shall report
17 to the state licensing authority:

18 (a) the name of the manager; and

19 (b) a change in manager 30 days prior to any change.

20

21 **NEW SECTION. Section 33. Unlawful financial assistance.** (1) The state licensing authority shall
22 require a complete disclosure of all persons having a direct or indirect financial interest in each license issued
23 pursuant to [sections 17 through 40]. The disclosure must include the extent of each person's financial interest.

24 (2) This section does not apply to:

25 (a) a financial institution as defined in 32-6-103;

26 (b) federal housing administration-approved mortgages; or

27 (c) stockholders, directors, or officers of financial institutions or the federal housing administration.

28 (3) This section is intended to prohibit and prevent the control of licenses by an individual, organization,
29 or business that is not licensed pursuant to the provisions of [sections 1 through 40].

30

1 **NEW SECTION. Section 34. License renewal.** (1) For all licenses except personal production assistant
2 licenses, the state licensing authority shall notify the licensee 90 days in advance of the expiration of the license.
3 The notification must be sent by first-class mail to the licensee's address of record with the state licensing
4 authority. Except as provided in subsection (2), a licensee shall apply for the renewal of an existing license at
5 least 30 days before the expiration date of the license.

6 (2) The state licensing authority, in its discretion and based upon reasonable grounds, may waive the
7 30-day requirement.

8 (3) (a) A licensee whose license has been expired for 90 days or less may file a late renewal application
9 upon the payment of a nonrefundable late application fee. A licensee who files a late renewal application and
10 pays the fee may continue to operate until the state licensing authority has taken final action on the application
11 unless the state licensing authority summarily suspends the license as provided in [section 38].

12 (b) A licensee whose license has been expired for more than 90 days may not cultivate, manufacture,
13 or distribute or otherwise transfer therapeutic marijuana until the person has obtained a new license.

14

15 **NEW SECTION. Section 35. Inactive licenses.** The state licensing authority may revoke or elect not
16 to renew a license if it determines that the licensed premises has been inactive for at least 90 days.

17

18 **NEW SECTION. Section 36. Unlawful acts by licensees.** (1) Except as otherwise provided in [sections
19 1 through 40], it is unlawful for a licensee to:

20 (a) possess more plants and usable marijuana than allowed by the terms of the license issued by the
21 state licensing authority or any rules adopted by the state licensing authority pursuant to [sections 17 through 40];

22 (b) have in possession or upon the licensed premises an amount of therapeutic marijuana in excess of
23 the amount allowed by the license;

24 (c) allow any use of therapeutic marijuana upon a licensed premises;

25 (d) have on the licensed premises any therapeutic marijuana or marijuana paraphernalia that shows
26 evidence of the therapeutic marijuana having been consumed or partially consumed;

27 (e) continue operating for the purpose of cultivation or manufacture of therapeutic marijuana or
28 therapeutic marijuana-infused products without filing the forms and paying the fees required under [sections 17
29 through 40];

30 (f) transfer or acquire therapeutic marijuana except as allowed pursuant to [sections 1 through 40];

1 (g) allow a person to be within a limited access area unless:

2 (i) the person's license or registration from the state licensing authority allows access and the person's
3 license or registration is displayed as required by [sections 1 through 40]; or

4 (ii) the person is an employee of the state licensing authority conducting an inspection pursuant to
5 [section 37];

6 (h) fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous
7 locations as required by rules adopted pursuant to [sections 17 through 40];

8 (i) fail to report a transfer or change of ownership or financial interest as required by [section 32];

9 (j) fail to report the names of or a change in managers as required by [section 32];

10 (k) display any signs;

11 (l) advertise in any medium, including electronic media;

12 (m) provide public premises for the purpose of using therapeutic marijuana in any form;

13 (n) provide therapeutic marijuana to a person not licensed pursuant to [sections 17 through 40] or to an
14 individual who is unable to produce a valid registry identification card;

15 (o) offer for sale or solicit an order for therapeutic marijuana;

16 (p) provide therapeutic marijuana anywhere other than the licensed premises specifically designated in
17 the license unless the licensee is a courier; or

18 (q) violate the provisions of 30-14-205 and 30-14-209.

19 (2) (a) It is unlawful for a therapeutic marijuana grower to possess, transfer, deliver, or cause to be
20 delivered to any person therapeutic marijuana not grown upon its licensed premises.

21 (b) A violation of this subsection (2) is grounds for the immediate revocation of the license granted under
22 [sections 17 through 40].

23 (3) (a) It is unlawful for a physician to make patient referrals to a therapeutic marijuana licensee or to
24 receive anything of value from a licensee or its agents, servants, or officers or anyone with a financial interest
25 in the license.

26 (b) It is unlawful for a licensee or registrant to offer anything of value to a physician.

27 (4) A person who violates a provision of this section commits a misdemeanor that is punishable by a fine
28 not to exceed \$10,000 or by imprisonment in a county jail for a term not to exceed 1 year, or both, unless the
29 violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged
30 and prosecuted pursuant to the provisions of Title 45.

1

2 **NEW SECTION. Section 37. Inspection procedures.** (1) The state licensing authority may conduct
3 frequent, unannounced inspections.

4 (2) (a) Each licensee shall keep a complete set of records necessary to show all business transactions,
5 INCLUDING TRANSFERS AMONG GROWERS. The records must be open for inspection by the state licensing authority
6 at any time during business hours.

7 (b) The state licensing authority may require:

8 (i) a licensee to furnish information it considers necessary for the proper administration of [sections 1
9 through 40]; and

10 (ii) an audit of the licensee's records and accounts by an auditor selected by the state licensing authority.
11 The auditor may have access to all books and records of the licensee.

12 (3) The licensee shall pay the costs of an audit required under this section.

13 (4) (a) A licensed premises, including any places of storage, where therapeutic marijuana is cultivated,
14 manufactured, stored, cultivated, or distributed is subject to entry by the state licensing authority for the purpose
15 of inspection or investigation during all business hours and other times of apparent activity.

16 (b) (i) For examination of inventory or books and records required to be kept by the licensee, the state
17 licensing authority may have access during business hours.

18 (ii) If any part of the licensed premises consists of a locked area, the licensee shall make the area
19 available for inspection without delay upon request of the state licensing authority.

20 (5) A licensee shall keep all books and records showing all business transactions of the licensee for the
21 current tax year and the 7 tax years immediately preceding the current tax year.

22 (6) Within 15 days after the end of each month and in a manner prescribed by the state licensing
23 authority, a licensee shall file a statement showing for that month:

24 (a) the total gross income collected through reimbursement of costs;

25 (b) the amount of usable marijuana produced;

26 (c) the number of plants grown, seedlings started, and cuttings and clones in inventory;

27 (D) THE AMOUNT AND FORMS OF THERAPEUTIC MARIJUANA TRANSFERRED BY A THERAPEUTIC MARIJUANA
28 GROWER TO ANOTHER GROWER;

29 ~~(d)~~(E) the names and registry identification numbers of registered cardholders to whom mature plants,
30 seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to

1 each cardholder; and

2 ~~(e)~~(F) the number of mature plants, seedlings, cuttings, and clones and amount of usable marijuana
3 remaining in inventory.

4
5 **NEW SECTION. Section 38. Penalties for licensees.** (1) The state licensing authority may summarily
6 suspend a license or issue a notice of contemplated action for a violation of any provision of [sections 17 through
7 40] or rules adopted pursuant to [sections 17 through 40].

8 (2) A license may be revoked, suspended, or subject to other disciplinary action and a renewal action
9 may be denied for:

10 (a) failure to comply with or satisfy any provisions of [sections 1 through 40] or rules adopted by the state
11 licensing authority;

12 (b) failure to allow an inspection by an authorized representative of the state licensing authority;

13 (c) falsification of any material or information submitted to the state licensing authority;

14 (d) diversion of therapeutic marijuana as determined by the state licensing authority; or

15 (e) threatening or harming a registered cardholder, a physician, or an employee of the state licensing
16 department.

17 (3) (a) A licensee whose license has been summarily suspended or who has received a notice of
18 contemplated action may request a hearing and an administrative review of written materials as applicable. The
19 licensee shall file the request for a hearing within 30 days of the date the action is taken or the notice is received.

20 (b) The request must be sent to the state licensing authority and include:

21 (i) the requester's name, address, and telephone number;

22 (ii) a statement of the facts relevant to the review of the action;

23 (iii) a statement of the statutes and administrative rules relevant to the review of the action; and

24 (iv) any other information or evidence the requester considers relevant to the request.

25 (4) The state licensing authority shall consider the request as provided in title 2, chapter 4.

26
27 **NEW SECTION. Section 39. Hotline.** (1) The state licensing authority shall create and maintain a
28 hotline to receive reports of suspected abuse of the provisions of [sections 1 through 40].

29 (2) The state licensing authority may:

30 (a) investigate reports of suspected abuse of the provisions of [sections 1 through 40]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

NEW SECTION. Section 40. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the state licensing authority for use in administering [sections 17 through 40]. The account consists of money deposited into the account from licensing fees and penalties assessed by the state licensing authority and any other source of revenue due to the state licensing authority. Interest earned on the account must be deposited into the account and used to sustain the account.

(2) Money from the account must be used to cover the expenses of the state licensing authority.

(3) Money remaining in the account at the end of the fiscal year must be transferred to the general fund.

SECTION 41. SECTION 37-1-101, MCA, IS AMENDED TO READ:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board or a program within the department;

(6) except as provided in [sections 17 through 40], assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(d);

1 (9) (a) provide notice to the board and to the appropriate legislative interim committee when a board
2 cannot operate in a cost-effective manner;

3 (b) suspend all duties under this title related to the board except for services related to renewal of
4 licenses;

5 (c) review the need for a board and make recommendations to the legislative interim committee with
6 monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency;
7 and

8 (d) notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the board
9 after providing notice and meeting the requirements under the Montana Administrative Procedure Act;

10 (10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's
11 annual appropriation level and adjust fees through administrative rules when necessary;

12 (11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134,
13 commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate
14 with the cost of services provided.

15 (12) adopt uniform rules for all boards and department programs to comply with the public notice
16 requirements of 37-1-311 and 37-1-405. The rules may require the posting of only the licensee's name and the
17 fact that a hearing is being held when the information is being posted on a publicly available website prior to a
18 decision leading to a suspension or revocation of a license or other final decision of a board or the department.

19 (13) carry out the licensing and other duties of [sections 17 through 40]. The department may not
20 delegate the responsibility for carrying out the provisions of [sections 17 through 40] to a board."

21
22 **Section 42.** Section 37-1-136, MCA, is amended to read:

23 **"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing
24 board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided
25 by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

26 (a) revocation of a license;

27 (b) suspension of its judgment of revocation on terms and conditions determined by the board;

28 (c) suspension of the right to practice for a period not exceeding 1 year;

29 (d) placing a licensee on probation;

30 (e) reprimand or censure of a licensee; or

1 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
2 proper.

3 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the
4 provisions of the Montana Administrative Procedure Act.

5 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from
6 engaging in the practice of the occupation or profession regulated by the board until a license to practice is
7 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

8 (4) An action may not be taken against a person who is in compliance with ~~Title 50, chapter 46~~ sections
9 1 through 40.

10 (5) Rules adopted under subsection (1) must provide for the provision of public notice as required by
11 37-1-311."

12

13 **Section 43.** Section 37-1-316, MCA, is amended to read:

14 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
15 applicant governed by this part:

16 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
17 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
18 theft, whether or not an appeal is pending;

19 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
20 licensure or certification;

21 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
22 securing a license or license renewal or in taking an examination required for licensure;

23 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
24 knows or reasonably ought to know contains a false or misleading statement;

25 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
26 the profession or occupation;

27 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
28 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
29 law, rule, or ordinance governing the licensee's profession or occupation;

30 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a

1 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
2 on appeal, under judicial review, or has been satisfied;

3 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

4 (9) revealing confidential information obtained as the result of a professional relationship without the prior
5 consent of the recipient of services, except as authorized or required by law;

6 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
7 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

8 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
9 the profession or occupation with reasonable skill and safety;

10 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
11 disease involving serious risk to public health or without taking adequate precautions, including but not limited
12 to informed consent, protective gear, or cessation of practice;

13 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
14 regarding the accounting and distribution of a client's property or funds;

15 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
16 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
17 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
18 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
19 filed, prosecuted, or completed;

20 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
21 organization to practice or offer to practice by use of the licensee's license;

22 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
23 appeal, against the licensee or of an action against the licensee by a:

24 (a) peer review committee;

25 (b) professional association; or

26 (c) local, state, federal, territorial, provincial, or Indian tribal government;

27 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
28 implementing 28-10-103(3)(a);

29 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
30 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act

1 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
2 to prove conduct that does not meet generally accepted standards.

3 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
4 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]."

5
6 **Section 44.** Section 37-3-343, MCA, is amended to read:

7 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
8 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
9 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

10 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
11 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
12 to become board-certified and on which the physician bases the physician's application for a telemedicine license
13 pursuant to 37-3-345(2).

14 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
15 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
16 present within the state.

17 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
18 for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40].

19 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
20 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
21 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
22 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

23
24 **Section 45.** Section 37-3-347, MCA, is amended to read:

25 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
26 deny an application for a telemedicine license if the applicant:

27 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
28 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

29 (b) plans to use telemedicine as a means of obtaining the information required for a written certification
30 that is used to apply for a registry identification card pursuant to [sections 1 through 40];

1 ~~(b)~~(c) fails to pay a required fee;

2 ~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

3 ~~(d)~~(e) has committed unprofessional conduct.

4 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
5 apply for a physician's license in order to practice medicine in Montana."

6
7 **Section 46.** Section 41-5-216, MCA, is amended to read:

8 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
9 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
10 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
11 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
12 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
13 extended jurisdiction.

14 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
15 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
16 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
17 court.

18 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
19 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

20 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
21 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
22 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
23 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
24 offender pursuant to Title 46, chapter 23, part 5.

25 (5) After formal youth court records, law enforcement records, and department records are sealed, they
26 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
27 a new offense, to:

28 (a) those persons and agencies listed in 41-5-215(2); and

29 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
30 age of majority.

1 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
2 under subsection (1), the electronic records of the management information system maintained by the department
3 of public health and human services and by the department relating to the youth whose records are being sealed
4 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

5 (b) The department of public health and human services and the department shall disassociate the
6 offense and disposition information from the name of the youth in the respective management information system.
7 The offense and disposition information must be maintained separately and may be used only:

8 (i) for research and program evaluation authorized by the department of public health and human
9 services or by the department and subject to any applicable laws; and

10 (ii) as provided in Title 5, chapter 13.

11 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
12 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
13 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
14 only pursuant to subsection (5).

15 (b) The informal youth court records may be maintained and inspected only by youth court personnel
16 upon a new offense prior to the youth's 18th birthday.

17 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
18 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
19 in hard-copy form must be destroyed and any electronic records in the youth court management information
20 system must disassociate the offense and disposition information from the name of the youth and may be used
21 only for the following purposes:

22 (i) for research and program evaluation authorized by the office of the court administrator and subject
23 to any applicable laws; and

24 (ii) as provided in Title 5, chapter 13.

25 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
26 court records within the juvenile probation management information system. Electronic records of the youth court
27 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
28 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
29 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
30 as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services or the state licensing authority as defined in [section 2], from confirming whether a youth applying for a registry identification card or a license or registration as provided in [sections 1 through 40] is currently under youth court supervision."

Section 47. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided

1 in 46-18-222.

2 (4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
3 subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than
4 life or be fined an amount of not more than \$50,000, or both.

5 (5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of
6 dangerous drugs to a minor shall be sentenced as follows:

7 (a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less
8 than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

9 (b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
10 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the
11 state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as
12 provided in 46-18-222.

13 (c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
14 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be
15 imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than
16 \$50,000, except as provided in 46-18-222.

17 (d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less
18 than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

19 (6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
20 professional practice are exempt from this section."

21

22 **Section 48.** Section 45-9-102, MCA, is amended to read:

23 **"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in ~~Title 50, chapter 46~~
24 [sections 1 through 40], a person commits the offense of criminal possession of dangerous drugs if the person
25 possesses any dangerous drug, as defined in 50-32-101.

26 (2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate
27 weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a
28 misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in
29 the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended
30 or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable

1 by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state
2 prison for a term not to exceed 3 years or by both.

3 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first
4 offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by
5 imprisonment in the county jail for not more than 6 months, or both.

6 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be
7 imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more
8 than \$50,000, except as provided in 46-18-222.

9 (5) (a) A person convicted of a second or subsequent offense of criminal possession of
10 methamphetamine shall be punished by:

11 (i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or

12 (ii) commitment to the department of corrections for placement in an appropriate correctional facility or
13 program for a term of not less than 3 years or more than 5 years. If the person successfully completes a
14 residential methamphetamine treatment program operated or approved by the department of corrections during
15 the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not
16 to exceed \$50,000.

17 (b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place
18 the person in a residential methamphetamine treatment program operated or approved by the department of
19 corrections or in a correctional facility or program. The residential methamphetamine treatment program must
20 consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based
21 prerelease center.

22 (c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

23 (i) the person to abide by the standard conditions of probation established by the department of
24 corrections;

25 (ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person
26 if the person is financially able to pay those costs;

27 (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption
28 on the premises or where gambling takes place;

29 (iv) that the person may not consume alcoholic beverages;

30 (v) the person to enter and remain in an aftercare program as directed by the person's probation officer;

1 and

2 (vi) the person to submit to random or routine drug and alcohol testing.

3 (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in
4 subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined
5 an amount not to exceed \$50,000, or both.

6 (7) A person convicted of a first violation under this section is presumed to be entitled to a deferred
7 imposition of sentence of imprisonment.

8 (8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting
9 in the course of a professional practice are exempt from this section."

10

11 **Section 49.** Section 45-9-103, MCA, is amended to read:

12 **"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in ~~Title 50, chapter~~
13 ~~46 [sections 1 through 40]~~, a person commits the offense of criminal possession with intent to distribute if the
14 person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

15 (2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to
16 distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and
17 may be fined not more than \$50,000, except as provided in 46-18-222.

18 (3) A person convicted of criminal possession with intent to distribute not otherwise provided for in
19 subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount
20 not to exceed \$50,000, or both.

21 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
22 professional practice are exempt from this section."

23

24 **Section 50.** Section 45-9-110, MCA, is amended to read:

25 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) Except as provided in ~~Title~~
26 ~~50, chapter 46 [sections 1 through 40]~~, a person commits the offense of criminal production or manufacture of
27 dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds,
28 or processes a dangerous drug, as defined in 50-32-101.

29 (2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in
30 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of

1 not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

2 (3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule
3 I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction
4 that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be
5 imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more
6 than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for
7 criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the
8 state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except
9 as provided in 46-18-222.

10 (4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a
11 dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not
12 to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and
13 the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned
14 in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight"
15 means the weight of the dry plant and includes the leaves and stem structure but does not include the root
16 structure. A person convicted under this subsection who has a prior conviction that has become final for criminal
17 production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not
18 to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

19 (5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
20 professional practice are exempt from this section."

21
22 **Section 51.** Section 45-9-127, MCA, is amended to read:

23 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) Except as provided in ~~Title 50, chapter~~
24 ~~46 [sections 1 through 40]~~, a person commits the offense of carrying dangerous drugs on a train in this state if
25 the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

26 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
27 provided in 45-9-102."

28
29 **SECTION 52. SECTION 45-9-203, MCA, IS AMENDED TO READ:**

30 **"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a**

1 driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the
2 court. The court shall forward the license and a copy of the sentencing order to the department of justice. The
3 defendant may apply to the department for issuance of a probationary license under 61-2-302.

4 (2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of
5 marijuana is convicted of an offense under this chapter, the court shall:

6 (a) at the time of sentencing, require the person to surrender the registry identification card; and

7 (b) notify the department of public health and human services of the conviction in order for the
8 department to carry out its duties under [section 6]."

9
10 **Section 53.** Section 45-10-103, MCA, is amended to read:

11 **"45-10-103. Criminal possession of drug paraphernalia.** Except as provided in ~~Title 50, chapter 46~~
12 [sections 1 through 40], it is unlawful for a person to use or to possess with intent to use drug paraphernalia to
13 plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,
14 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body
15 a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be
16 imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A
17 person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence
18 of imprisonment."

19
20 **Section 54.** Section 45-10-107, MCA, is amended to read:

21 **"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision
22 acting in the course of a professional practice and persons in compliance with ~~Title 50, chapter 46~~ [sections 1
23 through 40]; are exempt from this part."

24
25 **SECTION 55. SECTION 50-46-201, MCA, IS AMENDED TO READ:**

26 **"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of**
27 **medical use.** (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before the
28 effective date of [section 61(4) 65(4)] may not be arrested, prosecuted, or penalized in any manner or be denied
29 any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing
30 board or the department of labor and industry, if:

1 (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers,
2 or transports marijuana not in excess of the amounts allowed in subsection (2); or

3 (b) the qualifying patient uses marijuana for medical use.

4 (2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana
5 plants and 1 ounce of usable marijuana each.

6 (3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the
7 qualifying patient or caregiver:

8 (i) is in possession of a registry identification card; and

9 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under
10 subsection (2).

11 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
12 purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

13 (4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
14 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
15 department of labor and industry, for providing written certification for the medical use of marijuana to qualifying
16 patients.

17 (5) An interest in or right to property that is possessed, owned, or used in connection with the medical
18 use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for
19 the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

20 (6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as
21 provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity
22 of the medical use of marijuana as permitted under this chapter.

23 (7) Possession of or application for a registry identification card does not alone constitute probable cause
24 to search the person or property of the person possessing or applying for the registry identification card or
25 otherwise subject the person or property of the person possessing or applying for the card to inspection by any
26 governmental agency, including a law enforcement agency.

27 (8) A registry identification card or its equivalent issued by another state government to permit the
28 medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical
29 use of marijuana has the same force and effect as a registry identification card issued by the department."

30

1 **SECTION 56.** SECTION 50-46-202, MCA, IS AMENDED TO READ:

2 **"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.**

3 (1) The department shall maintain a confidential list of the persons to whom the department has issued registry
4 identification cards. Individual names and other identifying information on the list must be confidential and are not
5 subject to disclosure except to:

6 (a) authorized employees of the department as necessary to perform official duties of the department;

7 or

8 (b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful
9 possessor of a registry identification card.

10 ~~(1)~~(2) A person, including an employee or official of the department or other state or local government
11 agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the
12 person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

13 ~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana
14 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

15
16 **Section 57.** Section 61-11-101, MCA, is amended to read:

17 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
18 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
19 the suspension or revocation of the driver's license or commercial driver's license of the person by the
20 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
21 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
22 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
23 indicate that fact in its report to the department.

24 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
25 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
26 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
27 the conviction becomes final. The court may recommend that the department issue a restricted probationary
28 license on the condition that the individual comply with the requirement that the person attend and complete a
29 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

30 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any

1 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
2 upon which it is based to the department within 5 days on forms furnished by the department.

3 (4) A conviction becomes final for the purposes of this part upon the later of:

4 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

5 (b) forfeiture of bail that is not vacated; or

6 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
7 execution of a sentence.

8 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
9 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
10 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
11 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
12 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
13 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
14 person who holds any other type of driver's license.

15 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
16 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
17 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
18 subsection (1).

19 (6) (a) If a person who holds a valid therapeutic marijuana registry identification card or a therapeutic
20 marijuana license or registration issued pursuant to [sections 1 through 40] is convicted of or pleads guilty to any
21 offense related to driving under the influence of alcohol or drugs when the initial offense with which the person
22 was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall
23 require the person to surrender the registry identification card, license, or registration.

24 (b) Within 5 days after the conviction becomes final, the court shall forward:

25 (i) the registry identification card and a copy of the conviction to the department of public health and
26 human services; or

27 (ii) the license or registration and a copy of the conviction to the ~~department of revenue~~ STATE LICENSING
28 AUTHORITY AS DEFINED IN [SECTION 2]."

29
30 ~~Section 57. Section 69-1-114, MCA, is amended to read:~~

1 ~~———— "69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.~~

2 ~~———— (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), or 69-12-423(2), or [sections 17~~
 3 ~~through 40], a fee set by the commission may not exceed \$500.~~

4 ~~———— (3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the~~
 5 ~~special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."~~

6

7 ~~———— Section 58. Section 69-1-401, MCA, is amended to read:~~

8 ~~———— "69-1-401. Definitions. As used in this part, the following definitions apply:~~

9 ~~———— (1) "Department" means the department of public service regulation provided for in Title 2, chapter 15,~~
 10 ~~part 26.~~

11 ~~———— (2) (a) "Regulated companies" means all organizations, corporations, associations, or other public or~~
 12 ~~private entities which now are or may hereafter become subject to regulation in any manner by the department~~
 13 ~~of public service regulation, the public service commission, or any successor agency. The term does not include~~
 14 ~~motor carriers regulated pursuant to Title 69, chapter 12.~~

15 ~~———— (b) The term does not include individuals, businesses, or organizations licensed by the department~~
 16 ~~pursuant to [sections 17 through 40]."~~

17

18 NEW SECTION. Section 58. Emergency rulemaking. The department of public health and human
 19 services and the ~~public service commission~~ DEPARTMENT OF LABOR AND INDUSTRY shall adopt emergency rules
 20 as provided in 2-4-303 to allow for issuance of registry identification cards and processing of license applications
 21 pursuant to [sections 1 through 40] by June 1, 2011.

22

23 NEW SECTION. SECTION 59. REPEALER. THE FOLLOWING SECTIONS OF THE MONTANA CODE ANNOTATED
 24 ARE REPEALED:

25 50-46-101. SHORT TITLE.

26 50-46-102. DEFINITIONS.

27 50-46-103. PROCEDURES -- MINORS -- CONFIDENTIALITY -- REPORT TO LEGISLATURE.

28 50-46-201. MEDICAL USE OF MARIJUANA -- LEGAL PROTECTIONS -- LIMITS ON AMOUNT -- PRESUMPTION OF MEDICAL
 29 USE.

30 50-46-202. DISCLOSURE OF CONFIDENTIAL INFORMATION RELATING TO MEDICAL USE OF MARIJUANA -- PENALTY.

- 1 50-46-205. LIMITATIONS OF MEDICAL MARIJUANA ACT.
2 50-46-206. AFFIRMATIVE DEFENSE.
3 50-46-207. FRAUDULENT REPRESENTATION OF MEDICAL USE OF MARIJUANA -- PENALTY.
4 50-46-210. RULEMAKING -- FEES.

5

6 NEW SECTION. Section 60. Transition. (1) (a) Registry identification cards issued prior to [the
7 effective date of ~~this act~~ SECTION 65(4)] to qualifying patients for a debilitating medical condition that did not
8 include severe or chronic pain are valid until the expiration date listed on the card.

9 (b) Registry identification cards issued to qualifying patients for a debilitating medical condition that
10 included severe or chronic pain expire on August 31, 2011. An individual who is in possession of marijuana after
11 August 31, 2011, is not protected by the provisions of Title 50, chapter 46, that were in effect on ~~[the effective date~~
12 ~~of this act]~~ JUNE 30, 2011, if the individual was issued a registry identification card for a condition that included
13 severe or chronic pain and has not obtained a new registry identification card pursuant to sections [1 through 40].

14 (c) The department of public health and human services shall, before August 31, 2011, reissue cards
15 to qualifying patients who obtained a card before ~~[passage and approval of this act]~~ [THE EFFECTIVE DATE OF
16 SECTION 65(4)] and whose debilitating medical condition at the time of registration did not include severe or
17 chronic pain. The cards must be issued using a color that makes them easily distinguishable from cards issued
18 prior to ~~[the passage and approval of this act]~~ [THE EFFECTIVE DATE OF SECTION 65(4)].

19 (D) INDIVIDUALS WITH REGISTRY IDENTIFICATION CARDS THAT ARE VALID UNDER THIS SUBSECTION (1) ARE
20 SUBJECT TO THE PROVISIONS OF [THIS ACT] ON JULY 1, 2011, AND SHALL OBTAIN MARIJUANA FOR THERAPEUTIC USE
21 ACCORDING TO THE PROVISIONS OF [SECTIONS 1 THROUGH 16] AND THIS SECTION.

22 (2) (A) The department of public health and human services may begin issuing new registry identification
23 cards ~~pursuant to [sections 1 through 16] on July 1, 2011.~~ ON JUNE 1, 2011. THE DEPARTMENT SHALL ISSUE THE
24 CARDS USING THE DEFINITIONS IN [SECTION 2] AND PURSUANT TO THE WRITTEN CERTIFICATION AND PHYSICIAN STATEMENT
25 REQUIREMENTS OF [SECTION 5]. Cards issued pursuant to [sections 1 through 16] must be issued using a color that
26 makes them easily distinguishable from cards issued before ~~[passage and approval of this act]~~ [THE EFFECTIVE
27 DATE OF SECTION 65(4)] and from cards issued pursuant to subsection (2)(c).

28 (B) QUALIFYING PATIENTS WHO OBTAIN A REGISTRY IDENTIFICATION CARD ON OR AFTER JUNE 1, 2011, AND
29 BEFORE JULY 1, 2011, MAY NAME A CAREGIVER IN THEIR APPLICATIONS AND MAY, THROUGH JUNE 30, 2011, USE A
30 CAREGIVER TO OBTAIN THERAPEUTIC MARIJUANA. ON JULY 1, 2011, A REGISTERED CARDHOLDER MAY BE IN POSSESSION

1 OF THERAPEUTIC MARIJUANA AS ALLOWED UNDER THIS SECTION. ON AND AFTER OCTOBER 1, 2011, A REGISTERED
2 CARDHOLDER MAY CULTIVATE, MANUFACTURE, OBTAIN, OR POSSESS THERAPEUTIC MARIJUANA AS PROVIDED IN [THIS ACT].

3 (3) From July 1, 2011, to ~~September 30~~ OCTOBER 1, 2011, an individual with a valid registry identification
4 card issued before [the effective date of this act] or pursuant to [sections 1 through 16] may possess four mature
5 plants, 12 seedlings, and ~~2 ounces~~ THE FOLLOWING AMOUNTS of usable marijuana at the cardholder's residence:

6 (A) 8 OUNCES FROM JULY 1 THROUGH JULY 31;

7 (B) 6 OUNCES FROM AUGUST 1 THROUGH AUGUST 31;

8 (C) 4 OUNCES FROM SEPTEMBER 1 THROUGH SEPTEMBER 30; AND

9 (D) 2 OUNCES ON OR AFTER OCTOBER 1.

10 (4) (a) The ~~public service commission~~ DEPARTMENT OF LABOR AND INDUSTRY may begin processing
11 applications for licenses for couriers, personal production assistants, therapeutic marijuana growers, and
12 therapeutic marijuana-infused product manufacturers on June 1, 2011.

13 (b) Personal production assistants may begin carrying out the activities allowed under their license on
14 July 1, 2011.

15 (c) Beginning July 1, 2011, therapeutic marijuana growers and therapeutic marijuana-infused product
16 manufacturers that have been licensed by the ~~public service commission~~ DEPARTMENT OF LABOR AND INDUSTRY
17 may cultivate, manufacture, and possess marijuana for therapeutic use but may not engage in any transactions
18 with cardholders or couriers before October 1, 2011.

19 (d) Couriers licensed by the state licensing authority before October 1, 2011, may not undertake the
20 activities allowed by their license until October 1, 2011.

21 (4) A caregiver who obtained a registry identification card prior to [the effective date of this act] SECTION
22 65(4)] is protected by the provisions of Title 50, chapter 46, that ~~were in effect prior to [the effective date of this~~
23 ~~act]~~ ARE IN EFFECT until June 30, 2011. A caregiver may not be in possession of marijuana plants, seedlings,
24 cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the
25 caregiver shall take the items to the law enforcement agency having jurisdiction in their area. The law
26 enforcement agency shall destroy the items.

27
28 NEW SECTION. Section 61. Codification instruction. [Sections 1 through 40] are intended to be
29 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
30 1 through 40].

~~COORDINATION SECTION. Section 59. Coordination instruction. (1) If House Bill No. 161 is not passed and approved, then [this act] is void.~~

COORDINATION SECTION. SECTION 62. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 82 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN [SECTIONS 4 AND 11 OF THIS ACT] IS VOID.

NEW SECTION. SECTION 63. INSTRUCTIONS TO CODE COMMISSIONER. (1) WHEREVER A REFERENCE TO "MEDICAL USE OF MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC USE OF MARIJUANA".

(2) WHEREVER A REFERENCE TO "MEDICAL MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC MARIJUANA".

(3) WHEREVER A REFERENCE TO 50-46-102 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 2] OF SENATE BILL NO. 423.

(4) WHEREVER A REFERENCE TO 50-46-205 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 14] OF SENATE BILL NO. 423.

NEW SECTION. Section 64. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 65. Effective dates. (1) Except as provided in subsections (2) through (4), [this act] is effective October 1, 2011.

(2) [Sections 17, 18, and 25 through 29] are effective June 1, 2011.

(3) [Section 4] AND, EXCEPT AS PROVIDED IN SUBSECTION (4), ~~[SECTION 60 59]~~ is ARE effective July 1, 2011.

(4) ~~[Section 61] is [SECTION 59]~~ [SECTIONS 55, 56, AND 58], THE REPEAL OF 50-46-103 PROVIDED FOR IN [SECTION 60 59], [SECTIONS 64 60, 62, AND 63], AND THIS SECTION ARE effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: Chair David Howard, on April 6, 2011 at 3:15 PM, in Room 152 Capitol

ROLL CALL

Members Present:

Rep. David Howard, Chair (R)
Rep. Cary Smith, Vice Chair (R)
Rep. Liz Bangerter (R)
Rep. Timothy Furey (D)
Rep. Ellie Boldman Hill (D)
Rep. Chuck Hunter (D)
Rep. Pat Ingraham (R)
Rep. Dan Kennedy (R)
Rep. Michael (Mike) More (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Joe Read (R)
Rep. Dan Skattum (R)

Members Excused: Rep. Pat Noonan, Vice Chair (D)

Members Absent: Rep. Steve Fitzpatrick (R)
Rep. Max Yates (R)

Staff Present: KarenDe Herman/Cara Gold, Committee Secretary
Sue O'Connell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 423, 4/1/2011

Executive Action: SB 423

00:00:54 Chairman Howard welcomed the committee.

HEARING ON SB 423

Opening Statement by Sponsor:

00:02:11 Sen. Jeff Essmann (R), SD 28, opened the hearing on SB 423, Generally revise laws relating to use of marijuana.

EXHIBIT(huh77a01)

00:10:14 Rep. Noonan, Rep. Fitzpatrick and Rep. Yates entered the hearing.

00:21:51 Sue O'Connell, Legislative Services Division (LSD)

EXHIBIT(huh77a02)

EXHIBIT(huh77a03)

EXHIBIT(huh77a04)

00:27:21 Chairman Howard

00:28:52 Rep. Hill

00:29:32 Chairman Howard

00:30:37 Rep. Furey

00:30:45 Chairman Howard

00:30:54 Rep. Hill

00:31:27 Sue O'Connell, LSD

00:32:46 Chairman Howard

00:33:19 Rep. Noonan

00:34:02 Chairman Howard

Proponents' Testimony:

00:34:20 Roy Kemp, Deputy Administrator of the Quality Assurance Division, Department of Public Health and Human Services (DPHHS)

00:44:46 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)

00:48:26 Cheryl Wood, Montana Association of Counties (MACo)

00:49:59 Jon Bennion, Montana Chamber of Commerce

00:51:14 Ed Bartlett, City of Billings, County of Yellowstone and The Billings Chamber of Commerce

00:53:25 Mark Long, Montana Narcotics Officers Association

00:53:56 Pat Keim, Columbia Grain Company and Alternatives Inc.

EXHIBIT(huh77a05)

00:57:50 Ali Bovington, Attorney General's Office, The Montana Department of Justice (DOJ)

EXHIBIT(huh77a06)

01:00:54 Mark Murphy, Montana Police Protective Association, MACo, Montana County Attorneys Association (MCAA)

01:01:30 Chairman Howard

01:01:35 Mark Murphy

01:03:44 Mike Foster, Catholic Hospitals of Montana

01:06:02 Joel Murdy, Self

EXHIBIT(huh77a07)

01:09:55 Riley Johnson, The National Federation of Independent Business (NFIB)

01:11:28 Sarah Baugh, Citizens for Cannabis Comprehension

EXHIBIT(huh77a08)

01:12:32 Tom Daubert, Patients and Families United

Opponents' Testimony:

01:14:39 Rep. Diane Sands, HD 95

01:20:38 Rep. Gary MacLaren, HD 89

01:22:11 Tawnya LaFond, The Patch Inc.

EXHIBIT(huh77a09)

01:24:16 Nathan Pierce, Montanans for Responsible Legislation

01:24:56 Chairman Howard left the hearing.

01:25:59 Rep. More

01:26:16 Nathan Pierce

01:27:07 Tayln Lang, Self

01:28:20 Chairman Howard returned to the hearing.

01:30:21 Kate Cholewa, The Alliance for Cannabis Science

01:34:12 Rose Habib, Self

01:38:16 John Barrows, Montana Newspaper Association

01:39:35 Jim Gingery, Montana Medical Growers Association

01:43:49 Travis Greene, Lionheart Caregiving

01:45:44 Jennifer Fanuzzi, Lionheart Caregiving

EXHIBIT(huh77a10)

01:48:22 Barb Trego, Self

01:49:33 Laura Needham, Self

EXHIBIT(huh77a11)

01:52:32 William Reid, Self

01:55:21 Jack Mayes-Gentry, The Patch Inc.

01:57:31 Mike Furlong, 3MC

02:00:54 Steve Zabawa, Self

02:04:22 Barbie McLaws, Safe Community, Safe Kids

02:05:39 Janet Whitmoyer, Montana Medical Association

02:06:21 Cherrie Brady, Self

02:09:11 James Haney, Heaven Scent Cannabis of Montana

02:09:23 Grant Bonnice, Self

Informational Testimony:

02:10:01 Pat Bollinger, Montana Board of Medical Examiners

EXHIBIT(huh77a12)

02:12:14 Steve Zabawa, Self

Questions from Committee Members and Responses:

02:13:18 Rep. Hill

02:14:46 Roy Kemp

02:14:53 Rep. Hill
 02:15:03 Roy Kemp
 02:15:26 Rep. Hill
 02:15:54 Roy Kemp

 02:16:48 Rep. Bangerter left the hearing.

Closing by Sponsor:

02:17:37 Sen. Essmann

 02:20:46 Recess
 02:36:12 The committee resumed and all committee members were present.

 02:36:23 Chairman Howard

EXECUTIVE ACTION ON SB 423

02:36:56 **Motion:** Rep. C. Smith moved that **SB 423 BE CONCURRED IN.**

 02:37:19 Rep. Furey
 02:38:32 Chairman Howard

 02:38:39 **Substitute Motion:** Rep. Hill made a substitute motion that **EXECUTIVE ACTION ON SB 423 BE POSTPONED.**

Discussion:

02:39:44 Rep. Smith
 02:41:53 Rep. More
 02:43:01 Rep. Noonan
 02:44:01 Rep. Bangerter
 02:44:22 Sue O'Connell, LSD
 02:44:52 Rep. Bangerter
 02:45:09 Sue O'Connell
 02:45:31 Rep. Hunter
 02:46:50 Chairman Howard
 02:47:14 Rep. Skattum
 02:47:28 Rep. Hill
 02:47:44 Sue O'Connell
 02:47:58 Rep. Hill
 02:48:09 Sue O'Connell
 02:48:36 Rep. Smith
 02:48:54 Rep. Hill
 02:48:57 Rep. Smith
 02:49:44 Rep. Fitzpatrick
 02:50:05 Rep. Smith
 02:50:30 Chairman Howard

02:50:50 **Vote:** Motion failed 7-8 by roll call vote with Rep. Bangerter, Rep. Furey, Rep. Hill, Rep. Hunter, Rep. Noonan, Rep. Pease-Lopez and Rep. Smith voting aye.

02:52:04 **Motion:** Rep. Noonan moved that **SB 423 BE AMENDED.**
EXHIBIT(huh77a13)

Discussion:

02:53:07 Rep. Bangerter
02:53:21 Rep. Furey
02:53:51 Rep. Kennedy
02:54:04 Rep. Hunter
02:55:12 Rep. More
02:55:56 Rep. Hill

02:57:29 **Vote:** Motion failed 5-10 by roll call vote with Rep. Furey, Rep. Hill, Rep. Hunter, Rep. Noonan and Rep. Pease-Lopez voting aye.

02:58:20 **Motion:** Rep. C. Smith moved that **SB 423 BE AMENDED.** (See Exhibit 2)

Discussion:

02:59:20 Rep. Smith
03:10:27 Rep. Noonan
03:11:38 Rep. Fitzpatrick
03:12:11 Rep. Hill
03:12:34 Sue O'Connell
03:13:41 Rep. Hill
03:13:59 Sue O'Connell
03:14:15 Rep. Pease-Lopez
03:15:04 Rep. Smith
03:15:14 Sue O'Connell
03:16:12 Rep. Skattum
03:16:29 Rep. Smith
03:17:16 Rep. Skattum
03:17:40 Rep. Yates
03:19:10 Rep. Hill
03:19:39 Rep. Noonan
03:19:47 Rep. Hunter
03:21:35 Rep. Hill
03:23:44 Chairman Howard
03:25:52 Rep. Read
03:26:58 Rep. Kennedy

03:27:00 **Vote:** Motion carried 10-5 by roll call vote with Rep. Fitzpatrick, Rep. Furey, Rep. Hill, Rep. Noonan and Rep. Pease-Lopez voting no.

03:27:50 **Motion/Vote:** Rep. C. Smith moved that **SB 423 BE CONCURRED IN AS AMENDED.** Motion carried 12-3 by roll call vote with Rep. Furey, Rep. Hill and Rep. Noonan voting no. Rep. Smith will carry the bill.

ADJOURNMENT

03:28:59 Adjournment

Cara Gold, Secretary

cg

Additional Exhibits:

EXHIBIT(huh77a14)

Additional Documents:

EXHIBIT(huh77aad.pdf)

SB 423 – Repeal and Regulate

Sections 1-16: Regulations of Certifications

A. Physicians

- a. Bona fide doctor-patient relationship. Four or more visits over six or more months
- b. Telemedicine may not be used
- c. Minimum Standard of care
- d. Department referral of primary care physician who certifies more than 25 patients in a 12 month period
- e. Second physician review of medical records for severe chronic pain
- f. Second physician examination required for minor certifications
- g. No physician affiliation with growers or manufacturers

B. Cardholders

- a. Montana residents
- b. Not under Department of Corrections supervision
- c. Must have new laminated card in possession and produce photo ID
- d. Repeal of affirmation defense to persons not in possession of card
- e. DUI results in loss of card

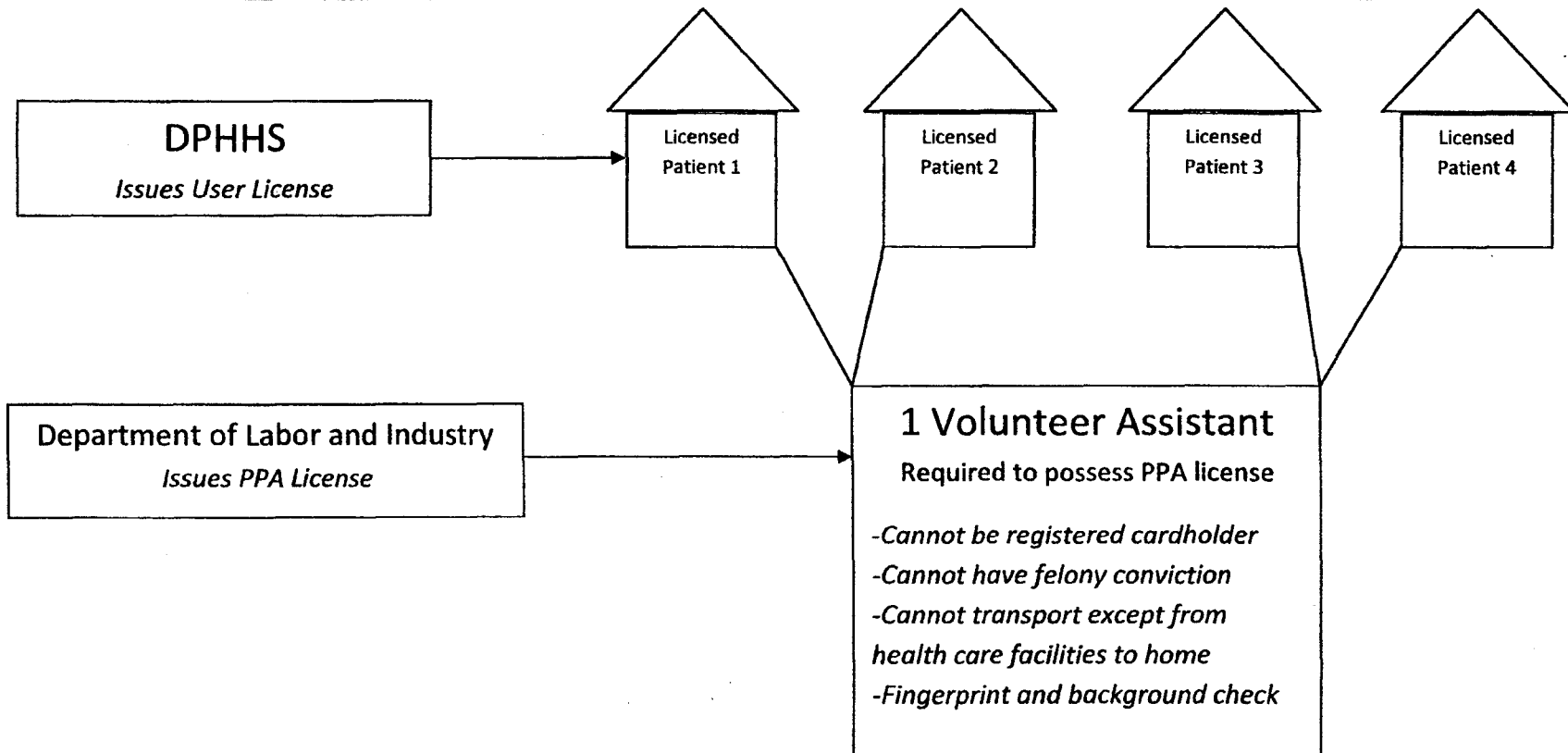
C. Local Government authority

D. Health care facility provisions

E. Advisory Board

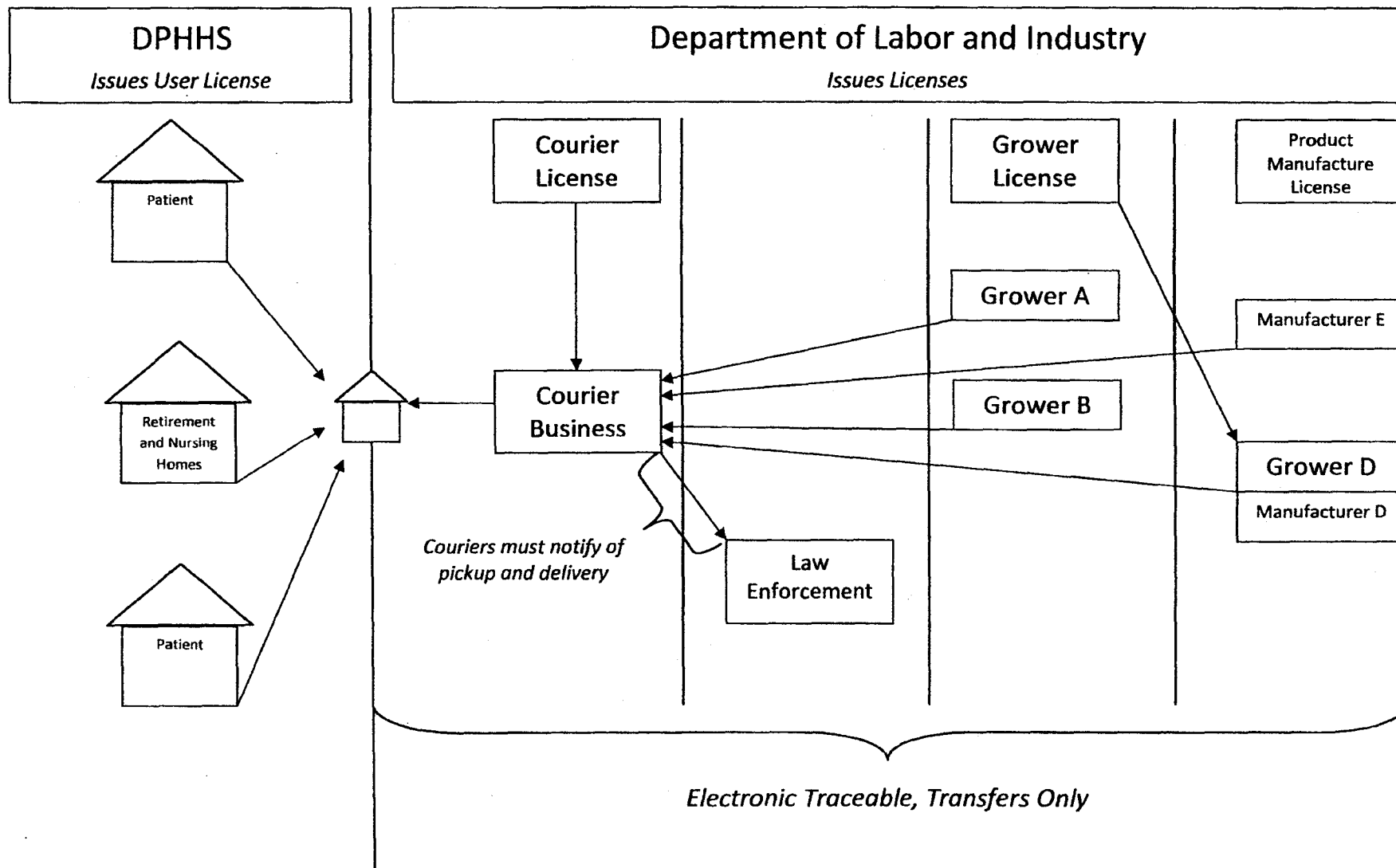
SB 423 – Repeal and Regulate

PLAN A - *Home Grown with Assistance*



SB 423 – Repeal and Regulate

PLAN B - Obtain from licensed producers



SB 423 Repeal and Regulate Transition Schedule

	Passage and Approval	1-Jun	1-Jul	1-Aug	1-Sep	1-Oct
	 No new cards may be issued.	Starting June 1, card renewal is subject to meeting new regulations.	Old Medical Marijuana law repealed, storefronts close, growers close, manufacturers close		All remaining severe and chronic pain cards which have not yet been renewed expire.	New licensing system for growers, manufacturers, and couriers begins.
Existing cards - Other		Reissue starts				
Existing Cards - Pain						
New Cards - Pain		Application starts				
Current Law			Repealed			
Storefronts						
Manufacturers						
Growers						
Couriers						

Amendments to Senate Bill No. 423
3rd Reading Copy

Requested by Representative Cary Smith

For the House Human Services Committee

Prepared by Sue O'Connell
April 6, 2011 (2:02pm)

1. Title, page 1, line 5.

Strike: "THERAPEUTIC"

2. Title, page 1, line 6.

Strike: "SYSTEM OF LICENSING"

Insert: "REGISTRY PROGRAM"

3. Title, page 1, line 7 through line 9.

Strike: "FOR" on line 7 through "USE" on line 8

Insert: "BY CERTAIN INDIVIDUALS"

Strike: "CREATING" on line 8 through "ACCOUNT;" on line 9

4. Title, page 1, line 10 through line 11.

Strike: "37-1-101, 37-1-136"

Following: "41-5-216,"

Strike: "45-9-101" on line 10 through "50-46-202," on line 11

Insert: "45-9-203,"

5. Page 1, line 14.

Insert: "WHEREAS, the state of Montana understands that manufacturing, distributing, or dispensing a controlled substance or possessing a controlled substance with intent to manufacture, distribute, or dispense the substance is a violation of the federal Controlled Substances Act; and

WHEREAS, marijuana is listed as a Schedule I controlled substance under that act; and

WHEREAS, by allowing the limited use of marijuana under the Montana Marijuana Act, the State of Montana does not condone the commission of a criminal violation of the federal Controlled Substances Act."

6. Page 1, line 17.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 17] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 17] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 17] by persons who obtain registry identification cards; and

(c) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions."

Insert: "NEW SECTION. Section 2. Definitions. As used in [sections 1 through 17], the following definitions apply:

(1) "Debilitating medical condition" means a medical condition determined by a physician to be debilitating for the person diagnosed with the condition.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Local government" means a county, a consolidated government, or an incorporated city or town.

(4) "Marijuana" has the meaning provided in 50-32-101.

(5) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(6) "Paraphernalia" has the meaning provided in 45-10-101.

(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office located in Montana.

(8) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to cultivate, manufacture, possess, or transport marijuana for use by a registered cardholder.

(b) The term does not include the cardholder's physician.

(9) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(10) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder or provider.

(11) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 17] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(12) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(13) "Standard of care" means the standard established by rule by the board of medical examiners.

(14) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(15) "Written certification" means a statement signed by a treating physician that meets the requirements of [section 6] and is provided in a manner that meets the standard of care."

Insert: "NEW SECTION. Section 3. Department responsibilities - issuance of cards -- confidentiality -- reports.(1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 17]; and

(ii) are named as providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 17].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider.

(3) Registry identification cards issued pursuant to [sections 1 through 17] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition or for a provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 15 days of approving an application or renewal.

(5) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder changes providers. A provider's registry identification card expires at the time the department issues a card to a new provider named by a registered cardholder.

(6) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, or provider or change in the status of the cardholder's debilitating

medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(7) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (8), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(8) The department shall provide the names of registered cardholders and providers to the local law enforcement agency having jurisdiction in the area in which the cardholders or providers live. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 14].

(9) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 15 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(10) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders or physicians."

Insert: "NEW SECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) and (3), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the person's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider;

(f) the name of the person's treating physician and the street address and telephone number of the physician's office;

(g) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;

(h) the name, date of birth, and street address of the individual the person has selected as a provider, if any; and

(i) a statement from the person's treating physician as required pursuant to [section 6].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions signs and submits a written statement that:

(a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(b) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(i) consents to the use of marijuana by the minor;

(ii) agrees to serve as the minor's provider;

(iii) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(iv) undergoes a name-based background check. The parent or legal guardian shall pay the costs of the background check.

(3) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or manufacture marijuana for the cardholder's use.

(5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

Insert: "NEW SECTION. Section 5. Providers -- requirements -- limitations. (1) The department shall issue a registry identification card to the person who is named as a provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

- (b) proof that the person is a Montana resident;
- (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;
- (d) a written agreement signed by the registered cardholder;
- (e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered cardholder at a property owned, rented, or leased by the cardholder or by the person; and
- (f) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person as a provider if the person:

- (a) has a felony conviction or a conviction for a drug offense;
- (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- (c) has failed to:
 - (i) pay any taxes, interest, penalties, or judgments due to a government agency;
 - (ii) stay out of default on a government-issued student loan;
 - (iii) pay child support; or
 - (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency.

(3) A provider may assist only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage.

(4) Marijuana for use pursuant to [sections 1 through 17] must be cultivated and manufactured in Montana.

(5) A provider may not:

- (a) accept compensation for any services or products provided to a registered cardholder;
- (b) use marijuana; or
- (c) be a registered cardholder.

(6) (a) A provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

- (i) a property that is owned by the provider;
- (ii) with written permission of the landlord, a property that is rented or leased by the provider; or
- (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or another registered cardholder."

Insert: "NEW SECTION. Section 6. Physician statement. (1) The written certification provided by a physician must:

- (a) confirm that the physician is the person's treating

physician and that the person has been under the physician's medical care and supervision;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) describe the medications, procedures, and other medical options used to treat the condition;

(e) state that the medications, procedures, or other medical options have not been effective;

(f) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(g) list restrictions on the person's activities due to the use of marijuana;

(h) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; and

(i) state that the physician will:

(i) continue to serve as the person's treating physician; and

(ii) supervise the person's use of marijuana and evaluate the efficacy of the treatment.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

Insert: "NEW SECTION. Section 7. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder or provider shall keep the cardholder's or provider's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge."

Insert: "NEW SECTION. Section 8. Health care facility procedures for patients with marijuana for use. (1) Except for hospices that allow the use of marijuana as provided in [section 10], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises."

Insert: "NEW SECTION. Section 9. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 17].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 17].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Possession of or application for a registry

identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge."

Insert: "NEW SECTION. Section 10. Limitations of the act. (1)
[Sections 1 through 17] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) in a correctional facility;

(vii) at a public park, public beach, public recreation center, or youth center;

(viii) in or on the property of any church, synagogue, or other place of worship;

(ix) in plain view of or in a place open to the general public; or

(x) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder or a provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 17] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated

with the use of marijuana by a person with a debilitating medical condition;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder or a provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 17] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 17] may be construed to allow a provider to use marijuana or to prevent criminal prosecution of a provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a registered cardholder or provider is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder or provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal."

Insert: "NEW SECTION. Section 11. Local government authority to regulate. To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the

department or the local government."

Insert: "NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

- (a) is convicted of a drug offense; or
- (b) allows another person to be in possession of the

cardholder's:

- (i) registry identification card; or
- (ii) marijuana plants or usable marijuana.

(2) A registered cardholder or a provider who violates [sections 1 through 17] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 17] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

Insert: "NEW SECTION. Section 13. Fraudulent representation - penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder or a provider is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 6] is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both."

Insert: "NEW SECTION. Section 14. Confidentiality of registry information -- penalty. (1) A person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 17].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both."

Insert: "NEW SECTION. Section 15. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating medical condition or the person's provider."

Insert: "NEW SECTION. Section 16. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 17] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a

determination that the person is in compliance with the provisions of [sections 1 through 17].

(2) A law enforcement agency in possession of marijuana plants seized as evidence is not responsible for the care and maintenance of the plants."

Insert: "NEW SECTION. Section 17. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 17]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and for persons with debilitating medical conditions and renewal of registry identification cards for providers and registered cardholders;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [section 5]; and

(d) other rules necessary to implement the purposes of [sections 1 through 17].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 17]."

Insert: "Section 18. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance

governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment

against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17]."

{ Internal References to 37-1-316:

28-10-103 37-1-319 37-1-320 37-2-304
37-3-348 37-35-301 37-35-301 * 37-35-301 *
50-20-307 } "

Insert: "Section 19. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

{ Internal References to 37-3-343:

37-3-301 * 37-3-341 * 37-3-342 * 37-3-342 *
37-3-343 * 37-3-343 * 37-3-344 * 37-3-347 * } "

Insert: "Section 20. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the

board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

{ Internal References to 37-3-347:

37-3-301 * 37-3-341 * 37-3-342 * 37-3-342 *

37-3-343 * 37-3-343 * 37-3-344 * 37-3-347 * }

Insert: "Section 21. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of

majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or

information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

{ Internal References to 41-5-216:

3-10-518 41-5-215 41-5-220 41-5-221
41-5-1524 42-3-203 } "

Insert: "Section 22. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 12]."

{ Internal References to 45-9-203: None. }

Insert: "Section 23. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days

after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

- (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;
- (b) forfeiture of bail that is not vacated; or
- (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving

under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

{ Internal References to 61-11-101:

61-5-307 61-5-307 61-5-308 61-8-442

61-10-154 }"

Insert: "NEW SECTION. Section 24. {standard} Repealer. The following sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees.

{ Internal References to 50-46-101: None.

Internal References to 50-46-102: None.

Internal References to 50-46-103: 50-46-201 50-46-202

Internal References to 50-46-201: None.

Internal References to 50-46-202: None.

Internal References to 50-46-205: 50-46-206

Internal References to 50-46-206: None.

Internal References to 50-46-207: None.

Internal References to 50-46-210: None. }"

Insert: "NEW SECTION. Section 25. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to the [effective date of this act] are valid until the expiration date listed on the card.

(2) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July 1, 2011, may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items."

Insert: "NEW SECTION. Section 26. {standard} Codification instruction. [Sections 1 through 17] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 17]."

Insert: "COORDINATION SECTION. Section 27. Coordination

instruction. (1) If both House Bill No. 161 and [this act] are passed and approved, then [this act] is void.

(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void."

Insert: "NEW SECTION. Section 28. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 7 of Senate Bill No. 423]."

Insert: "NEW SECTION. Section 29. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Insert: "NEW SECTION. Section 30. {standard} Effective date. This act is effective July 1, 2011."

- END -

SUMMARY OF AMENDMENTS PROPOSED BY REP. PAT NOONAN

Department of Public Health and Human Services

- Issues ID cards
- Promulgate rules to implement the statute
- Removes requirement for new Medical Advisory Board; allows DPHHS to consult with medical experts to determine whether to add to the list of debilitating medical conditions (Section 3)

Department of Agriculture

- Is licensing authority with detailed licensing requirements (Sections 17 through 40). The requirements include:
 - Growers and infused-products manufacturers are limited to a maximum of two offices per licensee (Sections 24 and 25)
- Will periodically review the number of licenses based on need and will either not renew or limit the number of growers licenses
- Will limit each licensee to a maximum of 100 plants initially and then adjust based on based on documentation of building size, rental codes, and number of patients
- Receive quarterly reports of financial transactions by licensees and will share those records with Department of Revenue
- Receives a \$350,000 OTO appropriation for startup costs and appropriation authority for ongoing costs

Patients

- Adds PTSD to list of debilitating medical conditions (Section 2)
- Implements new requirements for how many plants and seedlings may be kept by patients (Section 10)
 - Reduces mature plants from 4 to 3
 - Reduces seedlings from 12 to 6

Doctors

- Two doctors must approve medical marijuana use for patients under the age of 18 (Section 4)
- One doctor must approve medical marijuana use for patients over the age of 18 (eliminates second doctor for severe chronic pain) (Section 4)
- Must perform thorough medical examinations (kept from original bill)
- Must provide written certification and documentation concerning ailments in order for patients to qualify (Section 5)
- DPHHS will report to Board of Medical Examiners the names of any doctors who provide written certification for 50 or more patients so Board can review the physician's practices (Section 5)

Growers/Manufacturers

- Local law enforcement will be informed of the location, employees, licensees, and contractors
- All employees and contractors are subject to mandatory criminal background checks (Section 26)
- May accept cash as payment in addition to other forms of payment (Section 31)

Delivery of Medical Marijuana

- Courier service is eliminated (Section 22)
- Growers and manufacturers distribute the product and may have up to two discreet offices, depending on the number of cardholders using that grower or manufacturer (Sections 24 and 25)
- An employee or contractor of a grower or manufacturer who is delivering medical marijuana to a cardholder must have a copy of the grower's license and a copy of the patient ID number.

Other Provisions/Effective Dates

- Adds assisted living facilities and nursing homes to facilities whose residents can utilize medical marijuana. These facilities already have the capacity to control the substance. Currently, only hospice is in the bill. (Section 14)
- All criminal disciplinary actions remain the same.
- Effective Dates
 - Patients documentation is July 1, 2011
 - Doctors documentation is July 1, 2011
 - Standard of Care is July 1, 2011
 - Licensing provisions at Department of Agriculture is October 1, 2011
 - Producers must have licenses by January 1, 2012
 - Sunset of current law is January 1, 2012

RED = DELETE language

YELLOW = ADD Language

SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR THERAPEUTIC USE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, AND 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 40] may be cited as the "Montana Therapeutic Marijuana Act".

(2) The purpose of [sections 1 through 40] is to:

(a) provide legal protections to individuals with debilitating medical conditions who engage in the therapeutic use of marijuana as provided in [sections 1 through 40] to alleviate the symptoms of their debilitating medical conditions;

(b) allow for the possession, cultivation, manufacture, and delivery, and transportation of marijuana as permitted by [sections 1 through 40]; and

(c) create a framework for therapeutic use of marijuana that protects the health, welfare, and safety of both the persons engaging in the therapeutic use of marijuana and the general public by:

(i) allowing individuals who provide the required application materials to obtain registry identification cards;

(ii) allowing individuals to assist, without compensation, up to four registered cardholders with the cultivation and manufacture of therapeutic marijuana;

(iii) (ii) providing for licensure of individuals, businesses, and organizations that are involved in the cultivation, manufacture, delivery, and transfer of therapeutic marijuana or related products;

(iv) allowing certain licensees to be reimbursed for their costs; and

(v) (iii) establishing reporting requirements for production of therapeutic marijuana and sales and inspection requirements for licensed premises.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 40], unless the context clearly requires otherwise, the following definitions apply:

(1) "Courier" means an individual or business that is licensed to transport and deliver therapeutic marijuana or therapeutic marijuana-infused products from a licensed premises to a registered cardholder.

(2)(1) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's primary care physician. and by a specialist with expertise in the disease process that is causing the pain; and

(ii) objective proof of the etiology of the pain, including necessary and relevant diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

- (g) Crohn's disease;
- (h) painful peripheral neuropathy;
- (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- (j) admittance ihospice care, ASSISTED LIVING, NURSING HOME, in accordance with rules adopted by the department; or
- (k) Post traumatic syndrome disorder.

(L) any other medical condition or treatment for a medical condition approved by the ~~legislature~~ DEPARTMENT. The Department may consult with any medical experts it needs to assist in its decision. ~~of the advisory board provided for in [section 3].~~

(3) "Department" means the department of public health and human services.

(4) "Licensed premises" means the premises at which a therapeutic marijuana grower, a therapeutic marijuana-infused products manufacturer, or a registrant of a grower or manufacturer is authorized to cultivate, manufacture, or provide therapeutic marijuana or therapeutic marijuana-infused products.

(5) "Licensee" means a ~~couner~~, personal production assistant, therapeutic marijuana grower, or therapeutic marijuana-infused products manufacturer that has received a license pursuant to [sections 17 through 40].

(6) "Limited access area" means a building, room, or other contiguous area on a licensed premises to which only persons licensed or registered by the state licensing authority pursuant to [sections 17 through 40] may have access.

(7) "Local government" means a county, a consolidated government, or an incorporated city or town.

(8) "Marijuana" has the meaning provided in 50-32-101.

(9) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(10) "Paraphernalia" has the meaning provided in 45-10-101.

(11) (a) "Personal production assistant" means an individual 18 years of age or older who is licensed pursuant to [sections 17 through 40] and who has agreed to assist a registered cardholder as allowed under [section 23].

(b) The term does not include the cardholder's primary care or referral physician.

(12) "Primary care physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and

(c) has a bona fide professional relationship with the patient. ~~that has existed for at least 6 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed~~

(13) "Qualifying patient" means a person who has been diagnosed by a physician or physicians as having a debilitating medical condition.

(14) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the ~~person~~ PHYSICIAN to whom a patient's primary care physician has referred the patient for physical examination and medical assessment.

(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(16) "Registrant" means an individual who is registered by the state licensing authority for the purposes of working for a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.~~

(17) "Registry identification card" means a document issued by the department pursuant to [section 4] that identifies an individual as a registered cardholder.

(18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 40] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

(20) "Standard of care" means AT A MINIMUM:

(a) the following activities when undertaken by a patient's primary care physician OR REFERRAL PHYSICIAN if the primary care physician OR REFERRAL PHYSICIAN is providing written certification for a patient with a debilitating medical condition:

(i) obtaining the patient's medical history;

(ii) performing a relevant physical examination;

(iii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iv) obtaining and reviewing ANY NECESSARY AND relevant diagnostic test results related to the debilitating medical condition;

(v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(vi) monitoring the response to treatment and possible adverse effects; and

(vii) creating and maintaining patient records that remain with the physician; or

(b) the following activities undertaken by a referral physician when the referral physician THE SECOND PHYSICIAN WHO is providing written certification FOR A MINOR OR A QUALIFYING PATIENT WHOSE DEBILITATING MEDICAL CONDITION IS SEVERE CHRONIC PAIN:

(i) obtaining the patient's medical history;

(ii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iii) obtaining and reviewing ANY NECESSARY AND relevant diagnostic test results related to the debilitating medical condition; and

(iv) creating and maintaining patient records that remain with the physician.

(21) "State licensing authority" means the public service commission DEPARTMENT OF LABOR AND INDUSTRY provided for in 2-15-2002 2-15-1701, Department of Agriculture.

(22) "Therapeutic marijuana" means marijuana that is cultivated, manufactured, transferred, or used for therapeutic use.

(23) "Therapeutic marijuana grower" means an organization that meets the requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to cultivate marijuana at a licensed premises.

(24) (a) "Therapeutic marijuana-infused product" means a product that contains therapeutic marijuana and is intended for therapeutic use by means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(25) "Therapeutic marijuana-infused products manufacturer" means an organization that meets the requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to manufacture therapeutic marijuana-infused products.

(26) "Therapeutic use" means:

(a) for a registered cardholder, the possession, cultivation, manufacture, transportation, or use of marijuana or paraphernalia by a registered cardholder to alleviate the symptoms or effects of the cardholder's debilitating medical condition; and

(b) for a licensee, the cultivation, manufacture, transportation, or storage of therapeutic marijuana or the possession and use of paraphernalia for the manufacture of therapeutic marijuana:

(i) as allowed by the applicable license; and

(ii) solely for use by a registered cardholder.

(27) "Written certification" means a statement signed by a physician stating that:

(a) the physician has completed a full assessment of the qualifying patient's medical history and current medical condition;

(b) the assessment meets the standard of care;

(c) the qualifying patient has a debilitating medical condition; and

(d) the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the qualifying patient.

NEW SECTION. Section 3. Advisory board -- membership -- duties. (1) There is an advisory board consisting of eight medical practitioners representing the fields of neurology, pain management, medical oncology, psychiatry, infectious disease, family medicine OR INTERNAL MEDICINE, and gynecology OPHTHALMOLOGY.

(2) (a) Each advisory board member must be nationally board-certified in the member's area of specialty and knowledgeable about the therapeutic use of marijuana.

(b) The governor shall appoint the members from a list of practitioners proposed by Montana organizations representing physicians and health care facilities.

(3) The board shall meet two times a year to:

(a) review debilitating medical conditions previously approved by the legislature to determine whether to recommend changes to the eligibility criteria for individuals applying under those conditions or to review new scientific evidence pertaining to currently approved conditions, including information on the amount of therapeutic marijuana allowed for approved conditions or the form in which the marijuana should be used;

(b) review and, if necessary, recommend increases or decreases to the quantity of marijuana that licensed marijuana growers and registered cardholders may cultivate or manufacture in order to provide an adequate supply for registered cardholders;

(c) recommend the manner of consumption or application of marijuana-infused products that may be most appropriate for a particular debilitating medical condition; and

(d) review and recommend to the law and justice interim committee provided for under 5-5-225 additional debilitating medical conditions for which the benefits of the use of marijuana may be necessary, based on petitions submitted to the department for the addition of new debilitating medical conditions.

(4) Members of the board are entitled to be paid in an amount to be determined by the department, not to exceed \$50 for each day in which a member is actually and necessarily engaged in the performance of board duties and to be reimbursed for travel expenses, as provided for in 2-18-561 through 2-18-563, incurred while performing board duties. The board's operational costs must be paid through fees, fines, and penalties paid pursuant to [sections 1 through 16].

NEW SECTION. Section 4. 3. Registry identification cards -- minors -- exceptions -- report
REPORTS to legislature. (1) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who meet the requirements of [sections 1 through 40].

(2) Except as provided in subsections (4) and (5), the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

(a) written certification that the person is a qualifying patient;

(b) for a qualifying patient whose medical condition is severe chronic pain a written statement from their physician that in their medical opinion based on a thorough exam, review of medical records and any necessary and relevant ~~established by the results of~~ diagnostic tests, including but not limited to x-rays, a computerized tomography scan, or magnetic resonance imaging their patient should be treated with therapeutic medical marijuana.

(c) an application fee or renewal fee;

(d) the name, address, and date of birth of the qualifying patient;

(e) proof of Montana residency;

(f) the name, street address, and telephone number of the qualifying patient's primary care physician and referral physician, if any;

(g) a statement on a form prescribed by the department pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40];

(h) a statement indicating that the qualifying patient intends to:

(i) cultivate ~~the qualifying patient's~~ their own therapeutic marijuana; or

(ii) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer; OR

~~(iii) BOTH CULTIVATE THERAPEUTIC MARIJUANA AND OBTAIN THERAPEUTIC MARIJUANA FROM A THERAPEUTIC MARIJUANA GROWER OR A THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER;~~

(i) (i) the name, street address, and date of birth of the individual's personal production assistant, if any; or

(ii) (iii) an application for approval to acquire therapeutic marijuana from a therapeutic marijuana grower or therapeutic-marijuana infused products manufacturer, IF APPLICABLE.

(3) A registered cardholder may have only one personal production assistant if the cardholder chooses to cultivate and manufacture therapeutic marijuana ~~rather than obtain the marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer.~~

(4) The department shall issue a registry identification card to a minor if the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) submits the materials required under subsection (2);

(b) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(c) signs and submits a written statement that:

(i) two physicians have explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the therapeutic use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the therapeutic use of marijuana by the minor;

(B) agrees to be the sole person that provides the minor with therapeutic use of marijuana. ~~serve as the minor's personal production assistant;~~

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the therapeutic use of marijuana by the minor;

(D) submits fingerprints to facilitate a finger print and background check by the department of justice and the federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not be licensed if the parent or legal guardian does not meet the requirements of [sections 1 through 40].

(E) pledges, on a form prescribed by the department, not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40].

(5) The application for a minor must include written certification and the statements required under [section 5] from:

- (a) the primary care physician who is recommending marijuana for therapeutic use; and
- (b) a second physician who has conducted a comprehensive review of the minor's medical record as maintained by the minor's primary care physician and who is recommending marijuana for therapeutic use by the minor.

(6) An individual may not be a registered cardholder if the individual is IN THE CUSTODY OF OR under the supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court.

(7) (a) The department ~~shall verify~~ must have complete application materials and may verify any questionable documentation that is submitted and shall approve or deny the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the application or renewal.

- (b) The department may deny an application or renewal only:
 - (i) if the applicant did not provide the information required pursuant to this section;
 - (ii) if the department determines that the information was falsified;
 - (iii) if the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 40]; or
 - (iv) for other reasons specified by the department by rule.

(c) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(8) The department shall issue a registry identification card with a unique identification number within 15 days of approving an application or renewal. Registry identification cards expire 1 year after the date of issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of time. A registry identification card must state:

- (a) the name, street address, and date of birth of the registered cardholder;
- (b) the name and street address of the primary care physician or referral physician, if any, who provided the written certification for the cardholder;
- (c) the date of issuance and expiration date of the registry identification card; and
- (d) other information that the department may specify by rule.

(9) The department shall provide the state licensing authority with the identification card number ~~name~~ of each registered cardholder who indicates on the application that the cardholder intends to:

- (a) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer; or
- (b) use a personal production assistant.

(10) (a) A registered cardholder shall notify the department within 10 days of any change in the:

- (i) cardholder's street address, physician, or personal production assistant;
- (ii) status of the cardholder's debilitating medical condition.

(b) If a change occurs and is not reported to the department, the registry identification card is void.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The department may not provide any identifying information of cardholders or physicians.

[(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE, AS PROVIDED IN 37-3-203, ON THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE THERAPEUTIC USE OF MARIJUANA.]

NEW SECTION. Section 5. 4. Written certification -- accompanying statements -- required notification to board of medical examiners. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The form must include:

(a) the physician's name, license number, office address, and telephone number on file with the board of medical examiners and the physician's BUSINESS e-mail address, IF ANY; and

(b) the qualifying patient's name, date of birth, and debilitating medical condition.

(2) A physician who is providing written certification for a qualifying patient 18 years of age or older or who is the primary care provider for a minor applying for a registry identification card shall provide:

(a) a statement initialed by the physician that the physician:

(i) has a BONA FIDE professional relationship with the qualifying patient. . ~~that has existed for at least 6 months and has included at least four visits at which the patient's debilitating medical condition was reviewed or assessed;~~

(ii) has assumed primary responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a comprehensive medical history and physical examination that included a personal review of any medical records maintained by other treating physicians and that may have included the qualifying patient's reaction and response to conventional medical therapies;

(iii) has reviewed all prescription and nonprescription medications and supplements used by the qualifying patient and has considered the potential drug interaction with marijuana;

(iv) has explained the potential risks and benefits of the therapeutic use of marijuana to the qualifying patient; and

(v) plans to continue to assess the patient and the patient's therapeutic use of marijuana during the course of the physician-patient relationship;

(b) a statement that in the physician's professional opinion the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the qualifying patient; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for therapeutic use by a minor ~~or the second physician providing written certification for a qualifying patient whose debilitating medical condition includes severe chronic pain~~ shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the primary care physician or documented the qualifying patient's severe chronic pain as required pursuant to [sections 1 through 40];

(b) a statement that in the physician's professional opinion, the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the minor or qualifying patient; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

~~(4) (A) The department shall provide the board of medical examiners provided for in 2-15-1731 with the name of each physician, except a referral physician, who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether they meet the standard of care.~~

~~(B) THE PHYSICIAN WHOSE PRACTICES ARE UNDER REVIEW SHALL PAY THE COSTS OF THE BOARD'S REVIEW ACTIVITIES.~~

NEW SECTION. Section 6. 5 Unlawful conduct by cardholder -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the cardholder's card for any purpose.

~~(2) A violation of~~ A REGISTERED CARDHOLDER WHO VIOLATES [sections 1 through 16] is punishable by a fine not to exceed ~~\$10,000~~ \$500 or by imprisonment in a county jail for a term not to exceed ~~1-year~~ 6 MONTHS, or both, unless otherwise provided in [sections 1 through 16] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 7. 6. Prohibitions on physician affiliation with therapeutic marijuana licensees. (1) (a) A physician may not:

(i) accept or solicit anything of value, including monetary remuneration, from a licensee or registrant or offer anything of value to a licensee or registrant;

(ii) offer a discount or any other thing of value to an individual who uses or agrees to use a particular licensee;

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where therapeutic marijuana is grown, manufactured, sold, or distributed; or

(iv) hold an economic interest in an enterprise engaged in the therapeutic use of marijuana if the physician certifies the debilitating medical condition of an applicant for a registry identification card.

(b) This subsection (1) does not prevent a physician from accepting a fee for providing medical care to a licensee or a registrant if the physician charges the licensee or registrant the same fee as the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to [sections 1 through 40], or has not met the standard of care required under [sections 1 through 40], the department may refer the matter to the board of medical examiners for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct as set out in 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the therapeutic use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict, as provided in 2-4-631, a physician's authority to provide written certification for the therapeutic use of marijuana.

NEW SECTION. Section 8, 7. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer that operates within the local government's jurisdictional area. The regulations may include but are not limited to:

- (a) restrictions on number, visibility, signage and location;
- (b) business licensing requirements;
- (c) building codes and standards; and
- (d) the inspection of businesses to ensure compliance with any sanitary

requirements established by the state licensing authority.

(2) An incorporated city or town may adopt an ordinance or resolution that prohibits the cultivation or manufacture of therapeutic marijuana by a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer within its jurisdictional area. An incorporated city or town that enacts a prohibition on doing business must give an existing business one year to relocate their business.

NEW SECTION. Section 9. Health care facility procedures for patients who are registered cardholders. (1) Except for hospices that allow the therapeutic use of marijuana as provided in [section 14], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has therapeutic marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the therapeutic marijuana from the premises before the patient is admitted, if the patient is able to do so;

(b) make a reasonable effort to contact the patient's personal production assistant or a courier; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A personal production assistant or courier contacted by a health care facility shall remove the therapeutic marijuana without charge to the health care facility and deliver it to the cardholder's residence or to a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer for storage until the patient is discharged from the facility. The personal production assistant or courier may return the therapeutic marijuana to the cardholder upon the cardholder's discharge from the facility.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and storing the therapeutic marijuana until the patient is discharged from the facility.

(4) If the therapeutic marijuana is being held by a law enforcement agency, the patient may pick up the therapeutic marijuana upon discharge from the hospital at no cost to the patient.

(5) A health care facility may not be charged for costs related to removal of therapeutic marijuana from the facility's premises.

NEW SECTION. Section 10. 8 Therapeutic use of marijuana -- limits on amount -- presumption of therapeutic use. (1) (a) Marijuana for therapeutic use may be cultivated or manufactured by:

(i) a registered cardholder who has indicated to the department that the cardholder will grow therapeutic marijuana for personal use at the cardholder's residence;

(ii) a therapeutic marijuana grower; or

(iii) a therapeutic marijuana-infused products manufacturer that has also obtained a therapeutic marijuana grower license.

(b) A cardholder who lives in a rental property must have the landlord's WRITTEN permission to cultivate or manufacture therapeutic marijuana in or on the rental property.

(2) (a) A registered cardholder may possess up to ~~4~~ 3 mature marijuana plants, ~~12~~ 6 seedlings, and a maximum of 2 ounces of usable marijuana. EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE CARDHOLDER SHALL KEEP THE MARIJUANA at the cardholder's residence.

(b) A registered cardholder may not be in possession of more than 1 ounce OF THE CARDHOLDER'S USABLE MARIJUANA when the cardholder is outside of the cardholder's residence.

(3) A therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer may provide no more than 2 ounces of usable marijuana or its equivalent in an infused product to a registered cardholder during a 30-day period. The licensee shall maintain records of transactions with cardholders to verify that the licensee has met the requirements of this section.

(4) Marijuana for therapeutic use by registered cardholders must be grown and manufactured in Montana.

(5) (a) A registered cardholder, ~~or~~ licensee, employee or contractor is presumed to be engaged in the therapeutic use of marijuana if the cardholder or licensee:

(i) is in possession of a registry identification card or an appropriate license; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 40].

(iii) is transporting therapeutic marijuana to a patient and is in possession of a copy of the license of the grower or manufacturer and has their state issued identification card from the state licensing authority and the unique identification number of the registered card holder(s) that the delivery is going to.

(b) The presumption may be rebutted by clear and convincing evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

NEW SECTION. Section 11. 9. Confidentiality of registry information -- disclosure. (1) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department and the state licensing authority as necessary to perform official duties of the department or state licensing authority; or

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(2) A [EXCEPT AS PROVIDED IN 37-3-203.] A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to therapeutic use of marijuana if the person knowingly or purposely discloses confidential information in violation of this section.

(3) A person convicted of disclosure of confidential information relating to therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

NEW SECTION. Section 12. 10. Legal protections for therapeutic use. (1) AN EXCEPT AS PROVIDED IN [SECTION 14] AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7), AN individual who possesses a registry identification card issued pursuant to [section 4] or a person licensed, employed by a license or contracting with a licensee ~~or registered~~ pursuant to [sections 17 through 40] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry solely because:

(a) the registered cardholder acquires, possesses, cultivates, or manufactures marijuana not in excess of the amounts allowed under [section 10];

(b) the registered cardholder uses therapeutic marijuana; or

(c) the licensee ~~or registrant~~, employee or contractor of the licensee, undertakes the activities allowed under the applicable license. ~~or registration.~~

(2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners

~~or the department of labor and industry~~, solely for providing written certification for the therapeutic use of marijuana to qualifying patients.

(3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

- (a) an individual's therapeutic use of marijuana impairs the individual's job-related performance; or
- (b) a physician violates the standard of care or other requirements of [sections 1 through 40].

(4) An interest in or right to property that is possessed, owned, or used in connection with the therapeutic use of marijuana or acts incidental to therapeutic use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the therapeutic use of marijuana as permitted under [sections 1 through 40].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of the therapeutic use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 37], possession of or application for a registry identification card or a license does not alone constitute probable cause to search the individual or the property of the individual or entity possessing or applying for the registry identification card, license, or registration or otherwise subject the individual or property of the individual or entity possessing or applying for the card or license to inspection by any governmental agency, including a law enforcement agency.

(7) THE PROVISIONS OF SUBSECTION (1) RELATING TO PROTECTION FROM ARREST OR PROSECUTION DO NOT APPLY TO AN INDIVIDUAL UNLESS THE INDIVIDUAL HAS OBTAINED A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION PRIOR TO AN ARREST OR THE FILING OF A CRIMINAL CHARGE. IT IS NOT A DEFENSE TO A CRIMINAL CHARGE THAT AN INDIVIDUAL OBTAINS A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION AFTER AN ARREST OR THE FILING OF A CRIMINAL CHARGE.

NEW SECTION. Section ~~13~~ 11. Registry card or license to be carried and exhibited on demand -- photo identification required. A registered cardholder or an individual licensed or registered pursuant to [sections 1 through 40] shall have the cardholder's registry identification card or the individual's license

or registration in the individual's immediate possession at all times. The individual shall display the registry identification card, license, or registration and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 14. 12. Limitations of therapeutic marijuana act -- penalties. (1)

[Sections 1 through 40] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana;

(b) the use of marijuana by a licensee;

(c) except as provided in subsection (3), the therapeutic use of marijuana:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school; or

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes; or

(d) the smoking of marijuana by a registered cardholder:

(i) in a school bus or other form of public transportation;

(ii) in a correctional facility;

(iii) at a public park, public beach, public recreation center, or youth center;

(iv) in plain view of or in a place open to the general public; or

(v) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A cardholder or licensee may not cultivate or manufacture therapeutic marijuana in a manner that is visible from the street or other public area.

(3) A licensed hospice, nursing home, or assisted living facility may adopt a policy that allows therapeutic use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 40] may be construed to require:

(a) a government medical assistance program ~~or private health insurer~~, A GROUP BENEFIT PLAN THAT IS COVERED BY THE PROVISIONS OF TITLE 2, CHAPTER 18, AN INSURER COVERED BY THE

PROVISIONS OF TITLE 33, OR AN INSURER AS DEFINED IN 39-71-116 to reimburse a person for costs associated with the therapeutic use of marijuana; or

(b) an employer to accommodate the therapeutic use of marijuana ~~in any workplace~~.

(5) NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO:

(A) PROHIBIT AN EMPLOYER FROM INCLUDING IN ANY CONTRACT A PROVISION PROHIBITING THE THERAPEUTIC USE OF MARIJUANA; OR

(B) PERMIT A CAUSE OF ACTION AGAINST AN EMPLOYER FOR WRONGFUL DISCHARGE PURSUANT TO 39-2-904 OR DISCRIMINATION PURSUANT TO 49-1-102.

~~(5)(6)~~ Nothing in [sections 1 through 40] may be construed to allow a licensee or registrant to use marijuana or to prevent criminal prosecution of a licensee or registrant who uses marijuana or paraphernalia for personal use.

~~(6)(7)~~ (a) An individual who violates subsection (1)(a) is subject to a revocation of the individual's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(b) If an individual's registry identification card is subject to renewal during the revocation period, the individual may not renew the card until the full revocation period has elapsed. The card subsequently may be renewed only if the individual submits all materials required for renewal.

NEW SECTION. Section 15. 13. Fraudulent representation of therapeutic use of marijuana -- penalty. (1) A person commits the offense of fraudulent representation of therapeutic use of marijuana if the person knowingly or purposely fabricates or misrepresents to a law enforcement officer a registry identification card, license, or registration issued pursuant to [sections 1 through 40].

(2) A person convicted of fraudulent representation of therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed ~~4-year~~ 6 MONTHS, or both.

NEW SECTION. Section 16. 14. Rulemaking -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 16]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for qualifying patients and renewal of registry identification cards for registered cardholders;

(b) the acceptable forms of proof of Montana residency;

(c) the circumstances under which a patient's admittance into hospice care will qualify as a debilitating medical condition;

(d) the diagnostic tests allowable as proof of a debilitating medical condition involving severe chronic pain;

(e) the circumstances under which the department will notify the board of medical examiners of potential violations of [section 7]; and

(f) other rules necessary to implement the purposes of the regulation of therapeutic marijuana.

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 16]. The department may vary the application and renewal fees along a sliding scale that accounts for an applicant's income.

NEW SECTION. Section 17. 15. State licensing authority. (1) The state licensing authority may hire employees to carry out the responsibilities assigned under [sections 17 through 40]. The employees are employees of the public service commission **DEPARTMENT OF LABOR AND INDUSTRY** **AGRICULTURE**.

(2) The operational costs of the state licensing authority related to carrying out its responsibilities under [sections 17 through 40] must be fully funded by fees paid by licensees and registrants. The costs include but are not limited to the costs of the authority's licensing, inspection, and investigation duties and operation of the hotline provided for in [section 39].

NEW SECTION. Section 18. 16. State licensing authority -- powers and duties -- rulemaking authority. (1) (A) **THE STATE LICENSING AUTHORITY SHALL DETERMINE THE NUMBER OF** **ISSUE LICENSES TO BE ISSUED FOR THERAPEUTIC MARIJUANA GROWERS, THERAPEUTIC** **MARIJUANA-INFUSED PRODUCTS MANUFACTURERS. . AND COURIERS BASED UPON AN**

~~INITIAL REVIEW AND~~ THE STATE LICENSING AUTHORITY SHALL DO ~~PERIODIC~~ REVIEWS EVERY TWO YEARS OF THE NUMBER OF REGISTERED CARDHOLDERS ~~WHO HAVE INDICATED TO THE DEPARTMENT THAT THEY PLAN TO OBTAIN THERAPEUTIC MARIJUANA FROM A GROWER OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER.~~

(B) BASED UPON ITS ~~INITIAL REVIEW AND~~ PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS AND THE RESULTING NEED FOR THERAPEUTIC MARIJUANA, THE STATE LICENSING AUTHORITY MAY:

(I) ISSUE TEMPORARY LICENSES; NOT RENEW LICENSES AND/OR

(II) REDUCE THE NUMBER OF PLANTS, SEEDLINGS, CUTTINGS, AND CLONES AND THE INVENTORY OF USABLE MARIJUANA A GROWER MAY CULTIVATE, MANUFACTURE, OR POSSESS.

~~(4)(2)~~ The state licensing authority shall:

(a) grant or refuse state licenses for the cultivation, manufacture, distribution, transportation, and provision of therapeutic marijuana as provided by law;

(b) suspend, restrict, or revoke licenses upon violation of [sections 1 through 40] or a rule adopted pursuant to [sections 1 through 40];

(c) impose fines and penalties authorized by [sections 17 through 40] or a rule adopted pursuant to [sections 17 through 40];

(d) take any action with respect to a registrant that it may take with respect to a licensee;

(e) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, ~~transportation~~, and provision of therapeutic marijuana and for the enforcement of [sections 1 through 40];

(f) hear and determine at a public hearing:

(i) an appeal of a state license denial; or

(ii) a complaint against a licensee;

(g) administer oaths and issue subpoenas to require the presence of persons and the production of materials necessary for a hearing held pursuant to this section;

(h) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of therapeutic marijuana provided to a particular individual or any other records that are exempt from public inspection pursuant to state law;

(i) develop the forms, licenses, identification cards for licensees, their employees and contractors , and applications necessary for the administration of [sections 17 through 40]; and

(j) report annually to the legislature the number of applications received and granted for each type of license, the geographic locations of licensees, the number of registered cardholders served by each licensee, and the number and types of licenses revoked by the state licensing authority. The report may not provide any individually identifying information about licensees.

~~(2)~~(3) A hearing held pursuant to this section must comply with the provisions of Title 2, chapter 4.

~~(3)~~(4) The state licensing authority may adopt rules to carry out its duties and responsibilities, including but not limited to rules related to:

(a) licensing procedures, including:

(i) procedures for applications for initial licenses, renewals, and reinstatements;

(ii) procedures for approval, denial, or suspension of a license;

(iii) provisions for fines and license restrictions or revocations;

(iv) the procedure and fees for submitting fingerprints for background checks; and

(v) the fees to be charged for license applications, license issuance, license renewals or reinstatements, applications to change locations, and applications to transfer ownership. The fees must cover the operational costs of the state licensing authority.

(b) the duties of officers and employees of the state licensing authority;

(c) requirements for inspections, investigations, searches, and seizures;

(d) penalties for violation of the provisions of [sections 17 through 40];

(e) prohibitions on misrepresentation and unfair practices;

(f) control of informational and product displays on licensed premises;

(g) development of individual identification cards for officers, managers, contractors, employees, and other support staff of entities licensed or registered by the state licensing authority pursuant to [sections 17 through 40];

(h) security requirements for a licensed premises including, at a minimum, the lighting, physical security, video, and alarm requirements and other minimum procedures for internal control as determined necessary for the proper administration and enforcement of [sections 1 through 40];

(i) requirements for reporting changes, alterations, or modifications to a licensed premises;

(j) the storage of and transportation of therapeutic marijuana;

(k) sanitary requirements for therapeutic marijuana growers and for therapeutic marijuana-infused products manufacturers;

(l) the acceptable forms of photo identification that a licensee may accept when verifying a transaction;

(m) labeling standards;

(n) records to be kept by licensees and the required availability of the records, including the availability of information ensuring payment of applicable taxes;

(o) the sharing of information with other state agencies and with state and local law enforcement agencies;

(p) the use of genetic markers, if feasible, to verify the source of marijuana in a registered cardholder's possession or confiscated by a law enforcement agency; and

(q) other rules necessary to carry out the provisions of [sections 1 through 40].

~~(4)(5)~~ Nothing in [sections 1 through 40] may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a licensee or registrant. A law enforcement agency may run a Montana criminal justice information network criminal history record check of a licensee or a registrant their employees or contractors during an investigation of unlawful activity related to therapeutic marijuana.

NEW SECTION. **Section 19.17. Requirements for provision of therapeutic marijuana.** (1) The state licensing authority shall establish by rule a process by which registered cardholders who plan to obtain therapeutic marijuana from a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer are provided with information about the grower or manufacturer from which the therapeutic marijuana may be obtained.

(2) A registered cardholder may ~~not~~ obtain therapeutic marijuana directly from a therapeutic marijuana grower or therapeutic marijuana-infused product manufacturer.

(3) The rules must include but are not limited to:

(a) ~~the use of a courier to transport and deliver therapeutic marijuana;~~ Identification cards for the licensee and their employees and anyone they contract with in the growing, manufacturing or transportation of their products. the use of a courier to transport and deliver therapeutic marijuana;

(b) the manner in which licensees will ensure that therapeutic marijuana is provided only to registered cardholders; and

(c) the procedures a licensee shall follow if the licensee has reasonable cause to believe an individual is using a fraudulent registry identification card in an effort to obtain therapeutic marijuana.

(d) Any grow operation, manufacturer or storefront or office used for the therapeutic marijuana business must use the symbol TM or other symbol required by the state licensing authority along with their approved business name that does not draw attention to their business as a therapeutic marijuana business for the protection of the public.

(4) A licensee ~~may~~ **MUST** provide ~~a small~~ **AN** amount of its therapeutic marijuana or therapeutic marijuana-infused product for testing to a laboratory that is registered pursuant to rules adopted by the state licensing authority pursuant to [sections 1 through 40]. THE STATE LICENSING AUTHORITY MAY DETERMINE BY RULE THE AMOUNT OF THERAPEUTIC MARIJUANA THAT MAY BE PROVIDED FOR TESTING.

(5) Therapeutic marijuana and marijuana-infused products must be labeled with a list of all chemical additives that were used in the cultivation and production of the therapeutic marijuana or marijuana-infused product, including but not limited to nonorganic pesticides, herbicides, and fertilizers.

NEW SECTION. Section 20. 18. Organizations eligible for certain licenses -- requirements. (1)

To qualify for licensure as a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer, an applicant must : ~~be an organization that is formed or incorporated with a five-member structure of control and that operates the licensed activities on a reimbursement-of-costs basis and not for the purposes of earning a profit.~~

(2) An applicant under this section shall provide the state licensing authority with:

(a) proof of the organization's structure of control;

(b) a list of all individuals:

(i) with direct or indirect authority over the management policies of the facility; and

(ii) having a 5% or greater ownership in the licensed premises, whether the ownership is direct or indirect and is in land, buildings, or other materials. The information must include owners of any entity that owns all or part of the land.

(c) a brief business plan showing how the organization will fund operations during the first ~~2~~ **3** years of licensing, including the funding sources to be used;

- (d) a description of the facility that will be used for the production of therapeutic marijuana; and
- (e) other information as required by the state licensing authority.

NEW SECTION. Section 21. 19. Classes of licenses -- disclosure -- confidentiality. (1) The state licensing authority may issue:

(a) a courier license;

(b) a personal production assistant license;

(c) a therapeutic marijuana grower license;

(d) a therapeutic marijuana-infused products manufacturer license; and

(e) registrations for LABORATORY AS ALLOWED UNDER SECTION 19 AND IDENTIFICATION CARDS FOR managers, operators, employees, contractors, and other support staff employed by, working in, or having access to a limited access area of a licensed premises.

(2) The state licensing authority may take any action with respect to a registrant pursuant to [sections 17 through 40] that it may take with a licensee.

(3) The state licensing authority shall provide each appropriate local law enforcement agency with the name and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose the information to authorized employees of the agency as necessary to verify that a therapeutic marijuana operation is licensed and is in compliance with the provisions of [sections 17 through 40].

NEW SECTION. Section 22. Couriers -- requirements -- allowable activities. (1) The state licensing authority may issue a courier license to an individual or business to transport therapeutic marijuana or therapeutic marijuana-infused products from a licensed therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer to a registered cardholder **OR FROM A GROWER TO A MANUFACTURER.**

(2) An applicant for a courier license shall:

(a) undergo the licensing procedures established in [section 26]; and

(b) submit application materials as required by the state licensing authority, including but not limited to a statement acknowledging that possession of the license does not allow the person to engage in the use of therapeutic marijuana or paraphernalia and agreeing not to divert therapeutic marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40].

(3) A courier shall contract with the therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer and may be reimbursed at a rate established by the state licensing authority.

(4) Before a courier transports or delivers therapeutic marijuana, the courier shall notify the local law enforcement agencies having jurisdiction in the areas where the courier will obtain and deliver the therapeutic marijuana. The courier shall specify the licensee from whom the courier is obtaining therapeutic marijuana and the registered cardholder OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER to whom the courier is delivering the therapeutic marijuana.

(5) The state licensing authority may adopt rules relating to the amount of therapeutic marijuana that a courier may possess and transport at any given time.

(6) The state licensing authority may grant a courier license to a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer under exceptional circumstances as established by rule. Exceptional circumstances include but are not limited to the proximity of registered cardholders to a therapeutic marijuana grower or infused products manufacturer.

NEW SECTION. Section 23. Personal production assistants -- requirements -- allowable activities. (1) The state licensing authority shall issue a license to an individual who is named as a personal production assistant in a registered cardholder's approved application if the individual:

(a) registers the individual's street address with the state licensing authority;

(b) signs a statement:

(i) agreeing to:

(A) assist in cultivating or manufacturing therapeutic marijuana only for registered cardholders who have named the applicant as their personal production assistant;

(B) transport therapeutic marijuana only as allowed in [section 9]; and

(C) notify the state licensing authority and other regulatory entities within 10 days of any change in the individual's street address or in the street address where the therapeutic marijuana is cultivated or manufactured; and

(ii) acknowledging that the individual may not engage in the use of therapeutic marijuana or use paraphernalia for any purpose other than cultivating or manufacturing marijuana for therapeutic use by a registered cardholder; and

(iii) pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40];

(c) undergoes the licensing procedures established in [section 26]; and

(d) is not prohibited from licensure under the provisions of [section 27].

(2) An individual may serve as a personal production assistant for no more than four registered cardholders unless the state licensing authority approves a personal production assistant to serve more than four patients because of exceptional circumstances. Exceptional circumstances include but are not limited to the registered cardholder's proximity to a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

(3) A personal production assistant may not:

(a) receive compensation for activities allowed under [sections 1 through 40];

(b) hold any other license issued under [sections 17 through 40];

(c) delegate to another person the personal production assistant's authority to assist in the production of therapeutic marijuana for a cardholder or engage others to assist in the production of therapeutic marijuana for a cardholder; or

(d) cultivate or manufacture therapeutic marijuana at a location other than the residence of the registered cardholder.

(4) A personal production assistant shall maintain at all times a list of the registered cardholders who have named the individual as their personal production assistant. The list must include the registry identification card number of each patient and must be provided to a law enforcement agency upon request.

NEW SECTION. Section 24. 20. Therapeutic marijuana grower -- requirements -- allowable activities. (1) An organization licensed as a therapeutic marijuana grower shall cultivate marijuana at a licensed premises.

(2) A therapeutic marijuana grower shall:

(a) limit its therapeutic marijuana production to:

(i) ~~96 mature plants~~; and

(ii) the number of plants, seedlings, cuttings, and clones and inventory of usable marijuana set by the state licensing authority ~~by rule~~, IN GRANTING THE LICENSE and

(b) submit to the state licensing authority an acknowledgment that it will not exceed allowable production limits.

(3) A therapeutic marijuana grower may:

(a) sell marijuana to a therapeutic marijuana-infused products manufacturer as allowed by the state licensing authority; ~~and~~

(b) contract with a courier to deliver therapeutic marijuana to a registered cardholder OR

THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER; AND

(C) TRANSFER THERAPEUTIC MARIJUANA TO ANOTHER THERAPEUTIC MARIJUANA GROWER AS PROVIDED BY RULE.

(4) A therapeutic marijuana grower may not:

~~—(a) transfer therapeutic marijuana to another grower; or~~

~~—(b) conduct transactions directly with a registered cardholder at the therapeutic marijuana grower's licensed premises.~~

(5) Therapeutic marijuana may not be used in any form on the licensed premises.

NEW SECTION. Section 25. 21. Therapeutic marijuana-infused products manufacturer – allowable activities. (1) An organization licensed as a therapeutic marijuana-infused products manufacturer shall:

(a) prepare therapeutic marijuana-infused products on a licensed premises that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products;

(b) use equipment that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products; and

(c) if it does not have a therapeutic marijuana grower license, execute a written agreement or contract with a therapeutic marijuana grower that states at a minimum:

(i) the total amount of therapeutic marijuana to be obtained from the therapeutic marijuana grower and used in the manufacturing process; and

(ii) the total amount of therapeutic marijuana-infused products to be manufactured from the therapeutic marijuana obtained from the therapeutic marijuana grower.

(2) All licensed premises on which therapeutic marijuana-infused products are manufactured must meet:

(a) the sanitary standards for therapeutic marijuana-infused product preparation adopted by the state licensing authority; and

(b) any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(3) The state licensing authority shall determine the maximum amount and forms of marijuana that:

(A) a therapeutic marijuana-infused products manufacturer may obtain from a therapeutic marijuana grower; OR

(B) A THERAPEUTIC MARIJUANA GROWER OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY PROVIDE TO A REGISTERED CARDHOLDER WHO IS ALSO CULTIVATING OR MANUFACTURING THERAPEUTIC MARIJUANA FOR THE CARDHOLDER'S USE.

(4) A therapeutic marijuana-infused product must be prepackaged and labeled in accordance with rules adopted by the state licensing authority to indicate at a minimum that:

(a) the product contains therapeutic marijuana;

(b) the product is manufactured without any regulatory oversight for efficacy; and

(c) health risks may be associated with the consumption or use of the product.

(5) Therapeutic marijuana and therapeutic marijuana-infused products may not be consumed on a licensed premises.

(6) A therapeutic marijuana-infused products manufacturer that also has a therapeutic marijuana grower license may use the marijuana from the licensed premises affiliated with its grower license only for the purposes of making therapeutic marijuana-infused products at its manufacturing premises.

(7) Therapeutic marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

NEW SECTION. Section 26. 22. Licensing procedures -- background checks. (1) An applicant for a license ~~or registration~~ shall submit the following, in accordance with rules adopted by the state licensing authority:

(a) the name and street address of the applicant;

(b) the names and street addresses of the officers, directors, or managers involved with the applicant;

(c) the street address or physical description, if no street address is available, where the applicant's facility will be located;

(d) application and licensing fees as established by the state licensing authority in rule; and

(e) any other information required by the state licensing authority.

(2) Payment of the fee and submission of an application do not create an entitlement to receive a license or a registration.

(3) (a) An applicant shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation.

(b) The state licensing authority may acquire a name-based criminal history record check for an applicant, licensee, ~~or registrant~~ who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.

(4) The state licensing authority shall use the information resulting from a criminal history record check conducted under this section to investigate and determine whether an applicant is qualified to hold a state license or registration pursuant to [sections 17 through 40]. The state licensing authority may verify any information an applicant is required to submit.

(5) (a) Except as provided in subsection (6)(b), a license ~~or registration~~ issued pursuant to this section is valid for 2 3 years from the date of issuance unless revoked or suspended pursuant to [section 36 or 38].

(b) A personal production assistant license is valid for:

(i) the same period of time as the registry identification cards for the registered cardholders who have named the individual as their personal production assistant; or

(ii) a maximum of 2 years if the registry identification card of at least one of the registered cardholders who have named the individual as their personal production assistant would expire more than 2 years after the individual was first licensed.

(6) Each license ~~or registration~~ issued under [sections 17 through 40] is separate and distinct. A licensee or registrant may not:

(a) exercise any of the privileges granted under a license ~~or registration~~ other than the license ~~or registration~~ that the licensee or registrant holds; or

(b) allow another person to exercise the privileges granted under the license or registration.

(7) (a) A licensee shall notify the state licensing authority in writing of the name, street address, and date of birth of a new officer, manager, ~~or employee~~, CONTRACTOR before the new officer, manager, or employee begins working at, managing, or being associated with the licensee.

- (b) Before the individual may begin the association with the licensee, the individual shall:
 - (i) submit fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation; and
 - (ii) obtain ~~the~~ OFFICIAL identification cards required by the state licensing authority.

NEW SECTION. Section 27. 23. Persons prohibited as licensees. The state licensing authority may not issue a license to:

- (1) an individual with a felony conviction;
- (2) a licensed physician providing written certification for the therapeutic use of marijuana;
- (3) an individual WHO IS IN THE CUSTODY OF OR under the supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court;
- (4) a licensee who, during a period of licensure or at the time of application, has failed to:
 - (a) pay any taxes, interest, or penalties due;
 - (b) pay a judgment due to a government agency;
 - (c) stay out of default on a government-issued student loan;
 - (d) pay child support; or
 - (e) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;
- (5) a person who employs an individual who has not passed a criminal history record check;
- (6) a peace officer, as defined in 45-2-101;
- (7) an officer or employee of the state licensing authority;
- (8) a person whose authority for a license of a different class has been revoked by the state licensing authority;
- (9) a person for a license for a location that is currently licensed pursuant to 50-57-201 as an establishment or a retail food establishment; or
- (10) an individual who has not been a resident of Montana for at least 5 years prior to the date of the person's application.

NEW SECTION. Section 28. 24. Denial of license. (1) The state licensing authority shall deny a license to an applicant or licensee if:

(a) the premises on which the applicant proposes to conduct operations do not meet the requirements of [sections 1 through 40];

(b) the applicant does not meet or fails to comply with any of the terms, conditions, or provisions of [sections 1 through 40] or any rules adopted by the state licensing authority;

(c) the applicant fails to comply with any special terms or conditions that were placed on its license; or

(d) the licensed premises has been operated in a manner that adversely affects the public health or welfare or the safety of the community in which the licensed premises is located.

(2) An applicant who is denied a license pursuant to subsection (1) is entitled to a hearing pursuant to Title 2, chapter 4. The state licensing authority shall provide written notice of the reasons for denial at least 15 days before the hearing.

NEW SECTION. Section 29. 25. Restrictions applicable to new licenses -- local government authority. (1) The state licensing authority may not accept or approve an application for a license:

(a) until it is established that the applicant is or will be entitled to possession of the premises through a lease, rental agreement, or other arrangement for possession or by virtue of ownership of the premises;

(b) for a location in an area where the cultivation, manufacture, and provision of therapeutic marijuana as contemplated is not permitted under the applicable local government zoning laws; or

(c) if the building in which therapeutic marijuana is to be cultivated or manufactured is located within 2,000 feet of a school, a family or group day-care home as defined in 52-2-703, an alcohol or drug treatment facility, or the principal campus of a postsecondary school or seminary. The distance must be measured in a straight line from the nearest property line of the land used for a school, day-care home, alcohol or drug treatment center, campus, or seminary to the nearest portion of the building to be used by the applicant.

(2) A local government may by ordinance or resolution vary the distance restrictions imposed by this section or may eliminate one or more types of schools, campuses, or facilities from the application of a distance restriction.

NEW SECTION. Section 30. 26. Licenses -- contents and display. (1) A license issued pursuant to [sections 17 through 40] must specify the date of issuance, the period of licensure, the name of the licensee, and the premises that is licensed.

- (2) The license must be conspicuously displayed at all times at the premises for which it is issued.
- (3) The licensee shall at all times possess and maintain possession of the premises for which the license is issued. Possession may be by ownership, lease, rental, or other arrangement.
- (4) A DUPLICATE LISENCE MUST BE DISPLAYED IN ANY STORFRONT OR OFFICE WHERE THE LICENSEE DOES BUSINESS.

NEW SECTION. Section 31. 27. Cash transactions prohibited. (1) Cash transactions related to therapeutic marijuana are prohibited.

- (2) A licensee shall retain all documents related to transactions involving therapeutic marijuana, including documents verifying the type of payment used for the transaction.
- (3) A licensee shall make all documents related to transactions available to the state licensing authority for inspection upon request.
- (4) This section does not prohibit the use of checks, money orders, prepaid cards, debit cards, or credit cards to reimburse licensees for costs.

NEW SECTION. Section 32. 28. Transfer of ownership -- change of location or manager. (1) A therapeutic marijuana grower license or therapeutic marijuana-infused manufacturer license may be transferred to another organization upon application to the state licensing authority on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the state licensing authority shall consider the requirements of [sections 17 through 40] and rules adopted pursuant to [sections 17 through 40].

- (2) A personal production assistant license ~~or courier license~~ is not transferable.
- (3) A licensee shall report a transfer or change of ownership to the state licensing authority 30 days before a transfer or change of ownership occurs.
- (4) A report is required for transfers of capital stock of any corporation.
- (5) Upon approval from the state licensing authority, a licensee may move the licensee's permanent location to any place in the same city, town, or county for which the license was originally granted. Before granting the request, the state licensing authority shall consider whether the proposed change of location would conform with city, town, or county zoning requirements or regulatory decisions made pursuant to [section 8].

(6) A licensee ~~shall~~ MAY employ a separate and distinct manager on the premises. The licensee shall report to the state licensing authority:

- (a) the name of the manager; and
- (b) a change in manager 30 days prior to any change.

NEW SECTION. **Section 33. 29. Unlawful financial assistance.** (1) The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest in each license issued pursuant to [sections 17 through 40]. The disclosure must include the extent of each person's financial interest.

(2) This section does not apply to:

- (a) a financial institution as defined in 32-6-103;
- (b) federal housing administration-approved mortgages; or
- (c) stockholders, directors, or officers of financial institutions or the federal housing administration.

(3) This section is intended to prohibit and prevent the control of licenses by an individual, organization, or business that is not licensed pursuant to the provisions of [sections 1 through 40].

NEW SECTION. **Section 34. 30. License renewal.** (1) For all licenses except personal production assistant licenses, the state licensing authority shall notify the licensee 90 days in advance of the expiration of the license. The notification must be sent by first-class mail to the licensee's address of record with the state licensing authority. Except as provided in subsection (2), a licensee shall apply for the renewal of an existing license at least 30 days before the expiration date of the license.

(2) The state licensing authority, in its discretion and based upon reasonable grounds, may waive the 30-day requirement.

(3) (a) A licensee whose license has been expired for 90 days or less may file a late renewal application upon the payment of a nonrefundable late application fee. A licensee who files a late renewal application and pays the fee may continue to operate until the state licensing authority has taken final action on the application unless the state licensing authority summarily suspends the license as provided in [section 38].

(b) A licensee whose license has been expired for more than 90 days may not cultivate, manufacture, or distribute or otherwise transfer therapeutic marijuana until the person has obtained a new license.

NEW SECTION. Section 35. 31. Inactive licenses. The state licensing authority may revoke or elect not to renew a license if it determines that the licensed premises has been inactive for at least 90 days.

NEW SECTION. Section 36. 32. Unlawful acts by licensees. (1) Except as otherwise provided in [sections 1 through 40], it is unlawful for a licensee to:

- (a) possess more plants and usable marijuana than allowed by the terms of the license issued by the state licensing authority or any rules adopted by the state licensing authority pursuant to [sections 17 through 40];
- (b) have in possession or upon the licensed premises an amount of therapeutic marijuana in excess of the amount allowed by the license;
- (c) allow any use of therapeutic marijuana upon a licensed premises;
- (d) have on the licensed premises any therapeutic marijuana or marijuana paraphernalia that shows evidence of the therapeutic marijuana having been consumed or partially consumed;
- (e) continue operating for the purpose of cultivation or manufacture of therapeutic marijuana or therapeutic marijuana-infused products without filing the forms and paying the fees required under [sections 17 through 40];
- (f) transfer or acquire therapeutic marijuana except as allowed pursuant to [sections 1 through 40];
- (g) allow a person to be within a limited access area unless:
 - (i) the person's license ~~or registration~~ from the state licensing authority allows access and the person's license ~~or registration~~ is displayed as required by [sections 1 through 40]; or
 - (ii) the person is an employee of the state licensing authority conducting an inspection pursuant to [section 37];
- (h) fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous locations as required by rules adopted pursuant to [sections 17 through 40];
- (i) fail to report a transfer or change of ownership or financial interest as required by [section 32];
- (j) fail to report the names of or a change in managers as required by [section 32];
- (k) display any signs other than those approved by the state licensing authority;
- ~~(l) advertise in any medium, including electronic media;~~

- (m) provide public premises for the purpose of using therapeutic marijuana in any form;
 - (n) provide therapeutic marijuana to a person not licensed pursuant to [sections 17 through 40] or to an individual who is unable to produce a valid registry identification card;
 - (o) offer for sale or solicit an order for therapeutic marijuana;
 - (p) provide therapeutic marijuana anywhere other than the licensed premises specifically designated in the license ~~unless the licensee is a courier~~; or
 - (q) violate the provisions of 30-14-205 and 30-14-209.
- (2) (a) It is unlawful for a therapeutic marijuana grower to possess, transfer, deliver, or cause to be delivered to any person therapeutic marijuana not grown upon its licensed premise unless it is marijuana from an exchange provided for in the Department rules.
- (b) A violation of this subsection (2) is grounds for the immediate revocation of the license granted under [sections 17 through 40].
- (3) (a) It is unlawful for a physician to make patient referrals to a therapeutic marijuana licensee or to receive anything of value from a licensee or its agents, servants, or officers or anyone with a financial interest in the license.
- (b) It is unlawful for a licensee or registrant to offer anything of value to a physician.
- (4) A person who violates a provision of this section commits a misdemeanor that is punishable by a fine not to exceed \$10,000 or by imprisonment in a county jail for a term not to exceed 1 year, or both, unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 37.33. Inspection procedures. (1) The state licensing authority may conduct ~~frequent~~ regular, unannounced inspections.

(2) (a) Each licensee shall keep a complete set of records necessary to show all business transactions, INCLUDING TRANSFERS AMONG GROWERS. The records must be open for inspection by the state licensing authority at any time during business hours.

(b) The state licensing authority may require:

(i) a licensee to furnish information it considers necessary for the proper administration of [sections 1 through 40]; and

(ii) an audit of the licensee's records and accounts by an auditor selected by the state licensing authority. The auditor may have access to all books and records of the licensee. The licensing authority shall share any financial records requested by the Montanan Department of Revenue.

(3) The licensee shall pay the costs of an audit required under this section.

(4) (a) A licensed premises, including any places of storage, where therapeutic marijuana is cultivated, manufactured, stored, cultivated, or distributed is subject to entry by the state licensing authority for the purpose of inspection or investigation during all business hours and other times of apparent activity.

(b) (i) For examination of inventory or books and records required to be kept by the licensee, the state licensing authority may have access during business hours.

(ii) If any part of the licensed premises consists of a locked area, the licensee shall make the area available for inspection without delay upon request of the state licensing authority.

(5) A licensee shall keep all books and records showing all business transactions of the licensee for the current tax year and up to the 7 tax years during the term of their license. ~~immediately preceding the current tax year.~~

(6) Within 15 days after the end of each quarter ~~month~~ and in a manner prescribed by the state licensing authority, a licensee shall file a statement showing for that month:

(a) the total gross income collected through reimbursement of costs;

(b) the amount of usable marijuana produced;

(c) the number of plants grown, seedlings started, and cuttings and clones in inventory;

(D) THE AMOUNT AND FORMS OF THERAPEUTIC MARIJUANA TRANSFERRED BY A THERAPEUTIC MARIJUANA GROWER TO ANOTHER GROWER;

~~(d)~~(E) the ~~names and~~ registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder; and

~~(e)~~(F) the number of mature plants, seedlings, cuttings, and clones and amount of usable marijuana remaining in inventory.

NEW SECTION. ~~Section 38.~~ **34. Penalties for licensees.** (1) The state licensing authority may summarily suspend a license or issue a notice of contemplated action for a violation of any provision of [sections 17 through 40] or rules adopted pursuant to [sections 17 through 40].

(2) A license may be revoked, suspended, or subject to other disciplinary action and a renewal action may be denied for:

(a) failure to comply with or satisfy any provisions of [sections 1 through 40] or rules adopted by the state licensing authority;

(b) failure to allow an inspection by an authorized representative of the state licensing authority;

(c) falsification of any material or information submitted to the state licensing authority;

(d) diversion of therapeutic marijuana as determined by the state licensing authority; or

(e) threatening or harming a registered cardholder, a physician, or an employee of the state licensing department.

(3) (a) A licensee whose license has been summarily suspended or who has received a notice of contemplated action may request a hearing and an administrative review of written materials as applicable. The licensee shall file the request for a hearing within 30 days of the date the action is taken or the notice is received.

(b) The request must be sent to the state licensing authority and include:

(i) the requester's name, address, and telephone number;

(ii) a statement of the facts relevant to the review of the action;

(iii) a statement of the statutes and administrative rules relevant to the review of the action; and

(iv) any other information or evidence the requester considers relevant to the request.

(4) The state licensing authority shall consider the request as provided in title 2, chapter 4.

NEW SECTION. Section 39. Hotline. (1) The state licensing authority shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 40].

(2) The state licensing authority may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 40]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

NEW SECTION. Section 40. 35. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the state licensing authority for use in administering [sections 17 through 40]. The account consists of money deposited into the account from licensing fees and penalties

assessed by the state licensing authority and any other source of revenue due to the state licensing authority. Interest earned on the account must be deposited into the account and used to sustain the account.

(2) Money from the account must be used to cover the expenses of the state licensing authority.

(3) Beginning July 1, 2015, fifty percent of the mMoney remaining in the account at the end of the fiscal year must be transferred to the general fund.

(4) The state licensing authority shall have appropriation of \$350,000.00 to start the licensing program and hire up to 4 fte.

SECTION 41. SECTION 37-1-101, MCA, IS AMENDED TO READ:

37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting meetings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board or a program within the department;

(6) except as provided in sections 17 through 401, assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(d);

(9) (a) provide notice to the board and to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(b) suspend all duties under this title related to the board except for services related to renewal of licenses;

(c) review the need for a board and make recommendations to the legislative interim committee with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency; and

(d) notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the board after providing notice and meeting the requirements under the Montana Administrative Procedure Act;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary;

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided;

(12) adopt uniform rules for all boards and department programs to comply with the public notice requirements of 37-1-311 and 37-1-405. The rules may require the posting of only the licensee's name and the fact that a hearing is being held when the information is being posted on a publicly available website prior to a decision leading to a suspension or revocation of a license or other final decision of a board or the department;

(13) carry out the licensing and other duties of sections 17 through 401. The department may not delegate the responsibility for carrying out the provisions of sections 17 through 401 to a board."

Section 42. Section 37-1-136, MCA, is amended to read:

"37-1-136. Disciplinary authority of boards -- injunctions. (1) Subject to 37-1-138, each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(3) taking any other action in relation to disciplining a licensee as the board, in its discretion, considers proper;

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

(4) An action may not be taken against a person who is in compliance with Title 36, chapter 46 [sections 1 through 40].

(5) Rules adopted under subsection (1) must provide for the provision of public notice as required by 37-1-311.

Section 43. 36. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]."

Section 44. 37. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 45. 38. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means of obtaining the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]:

~~(b)~~(c) fails to pay a required fee;

~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 46. 39. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-

215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services or the state licensing authority as defined in [section 2], from confirming whether a youth applying for a registry identification card or a license or registration as provided in [sections 1 through 40] is currently under youth court supervision."

Section 47. 40. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in Title 50, chapter 46 [sections 1 through 40], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not

less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than life or be fined an amount of not more than \$50,000, or both.

(5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 48. 41. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or by both.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) (a) A person convicted of a second or subsequent offense of criminal possession of methamphetamine shall be punished by:

(i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or

(ii) commitment to the department of corrections for placement in an appropriate correctional facility or program for a term of not less than 3 years or more than 5 years. If the person successfully completes a residential methamphetamine treatment program operated or approved by the department of corrections during the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not to exceed \$50,000.

(b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place the person in a residential methamphetamine treatment program operated or approved by the department of corrections or in a correctional facility or program. The residential methamphetamine treatment program must consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based prerelease center.

(c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

(i) the person to abide by the standard conditions of probation established by the department of corrections;

(ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person if the person is financially able to pay those costs;

- (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;
 - (iv) that the person may not consume alcoholic beverages;
 - (v) the person to enter and remain in an aftercare program as directed by the person's probation officer; and
 - (vi) the person to submit to random or routine drug and alcohol testing.
- (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.
- (7) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.
- (8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 49. 42. Section 45-9-103, MCA, is amended to read:

"45-9-103. Criminal possession with intent to distribute. (1) Except as provided in ~~Title 50, chapter 46~~ sections 1 through 40, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to distribute not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 50. 43. Section 45-9-110, MCA, is amended to read:

"45-9-110. Criminal production or manufacture of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46~~ sections 1 through 40, a person commits the offense of criminal production or

manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. A person convicted under this subsection who has a prior conviction that has become final for criminal production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

(5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 51. 44. Section 45-9-127, MCA, is amended to read:

"45-9-127. Carrying dangerous drugs on train -- penalty. (1) Except as provided in ~~Title 50,~~
~~chapter 46~~ [sections 1 through 40], a person commits the offense of carrying dangerous drugs on a train

in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

SECTION 53. 45. SECTION 45-9-203, MCA, IS AMENDED TO READ:

"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of marijuana is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 6]."

Section 53. 46. Section 45-10-103, MCA, is amended to read:

"45-10-103. Criminal possession of drug paraphernalia. Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment."

Section 54. 47. Section 45-10-107, MCA, is amended to read:

"45-10-107. Exemptions. Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice and persons in compliance with ~~Title 50, chapter 46~~ [sections 1 through 40], are exempt from this part."

SECTION 55. 48. SECTION 50-46-201, MCA, IS AMENDED TO READ:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before the effective date of [section 61(4) 65(4)] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

SECTION 56, 49, SECTION 50-46-202, MCA, IS AMENDED TO READ:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana --
penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department;
or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

(1)(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of 50-46-103 this section.

(2)(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 57. 50. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses --

surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

- (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;
- (b) forfeiture of bail that is not vacated; or
- (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid therapeutic marijuana registry identification card or a therapeutic marijuana license or registration issued pursuant to [sections 1 through 40] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card, license, or registration.

(b) Within 5 days after the conviction becomes final, the court shall forward:

(i) the registry identification card and a copy of the conviction to the department of public health and human services; or

(ii) the license or registration and a copy of the conviction to the ~~department of revenue~~ STATE LICENSING AUTHORITY AS DEFINED IN [SECTION 2]."

~~Section 57. Section 69-1-114, MCA, is amended to read:~~

~~"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.~~

~~(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), or 69-12-423(2), or [sections 17 through 40], a fee set by the commission may not exceed \$500.~~

~~(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."~~

~~Section 58. Section 69-1-401, MCA, is amended to read:~~

~~"69-1-401. Definitions. As used in this part, the following definitions apply:~~

~~(1) "Department" means the department of public service regulation provided for in Title 2, chapter 15, part 26.~~

~~(2) (a) "Regulated companies" means all organizations, corporations, associations, or other public or private entities which now are or may hereafter become subject to regulation in any manner by the~~

department of public service regulation, the public service commission, or any successor agency. The term does not include motor carriers regulated pursuant to Title 69, chapter 12.

~~— (b) The term does not include individuals, businesses, or organizations licensed by the department pursuant to [sections 17 through 40]."~~

NEW SECTION. Section 58. 51. Emergency rulemaking. The department of public health and human services and the public service commission ~~DEPARTMENT OF LABOR AND INDUSTRY~~ AGRICULTURE shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards and processing of license applications pursuant to [sections 1 through 40] by ~~June 1, 2011~~ December 30, 2011..

NEW SECTION. SECTION 59. 52. REPEALER. THE FOLLOWING SECTIONS OF THE MONTANA CODE ANNOTATED ARE REPEALED EFFECTIVE JANUARY 1, 2012:

50-46-101. SHORT TITLE.

50-46-102. DEFINITIONS.

50-46-103. PROCEDURES -- MINORS -- CONFIDENTIALITY -- REPORT TO LEGISLATURE.

50-46-201. MEDICAL USE OF MARIJUANA -- LEGAL PROTECTIONS -- LIMITS ON AMOUNT -- PRESUMPTION OF MEDICAL USE.

50-46-202. DISCLOSURE OF CONFIDENTIAL INFORMATION RELATING TO MEDICAL USE OF MARIJUANA -- PENALTY.

50-46-205. LIMITATIONS OF MEDICAL MARIJUANA ACT.

50-46-206. AFFIRMATIVE DEFENSE.

50-46-207. FRAUDULENT REPRESENTATION OF MEDICAL USE OF MARIJUANA -- PENALTY.

50-46-210. RULEMAKING -- FEES.

NEW SECTION. Section 61. 54. Codification instruction. [Sections 1 through 40] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 40].

~~COORDINATION SECTION. Section 59. Coordination instruction. (1) If House Bill No. 161 is not passed and approved, then [this act] is void.~~

COORDINATION SECTION. SECTION 62. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 82 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN [SECTIONS 4 AND 11 OF THIS ACT] IS VOID.

NEW SECTION. SECTION 55. INSTRUCTIONS TO CODE COMMISSIONER. (1) WHEREVER A REFERENCE TO "MEDICAL USE OF MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC USE OF MARIJUANA".

(2) WHEREVER A REFERENCE TO "MEDICAL MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC MARIJUANA".

(3) WHEREVER A REFERENCE TO 50-46-102 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 2] OF SENATE BILL NO. 423.

(4) WHEREVER A REFERENCE TO 50-46-205 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 14] OF SENATE BILL NO. 423.

NEW SECTION. Section 64. 56. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 55. 57. Effective dates. (1) New Section 2 (1) debilitating medical condition (10) primary physician (17) Standard of care; New Section 3, 4, 8, 9, 10, 11, 12, 13 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25. 35, are effective July 1, 2011; the repealer is effective December 31, 2011 at 12 midnight, all other sections are effective January 1, 2012. (3) ~~[Section 4] AND EXCEPT AS PROVIDED IN SUBSECTION (4), SECTION 60 59] IS ARE~~ effective July 1, 2011.

(4) ~~Section 64 is SECTION 59. SECTIONS 55, 56, AND 58. THE REPEAL OF 50-46-103~~
~~PROVIDED FOR IN SECTION 60-59. SECTIONS 61-60, 62, AND 63. AND THIS SECTION ARE~~
effective on passage and approval.

- END -



YELLOW = ADD Language

SENATE BILL NO. 423
INTRODUCED BY J. ESSMANN
BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR THERAPEUTIC USE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, AND 61-11-101, ~~69-1-114~~, AND ~~69-1-404~~, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 40] may be cited as the "Montana Therapeutic Marijuana Act".

(2) The purpose of [sections 1 through 40] is to:

(a) provide legal protections to individuals with debilitating medical conditions who engage in the therapeutic use of marijuana as provided in [sections 1 through 40] to alleviate the symptoms of their debilitating medical conditions;

(b) allow for the possession, cultivation, manufacture, and delivery, and transportation of marijuana as permitted by [sections 1 through 40]; and

(c) create a framework for therapeutic use of marijuana that protects the health, welfare, and safety of both the persons engaging in the therapeutic use of marijuana and the general public by:

(i) allowing individuals who provide the required application materials to obtain registry identification cards;

(ii) providing for licensure of individuals, businesses, and organizations that are involved in the cultivation, manufacture, delivery, and transfer of therapeutic marijuana or related products;

(iii) establishing reporting requirements for production of therapeutic marijuana and sales and inspection requirements for licensed premises.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 40], unless the context clearly requires otherwise, the following definitions apply:

(1) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's primary care physician.

(ii) objective proof of the etiology of the pain, including necessary and relevant diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

- (g) Crohn's disease;
- (h) painful peripheral neuropathy;
- (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- (j) admittance to hospice care, ASSISTED LIVING, NURSING HOME, in accordance with rules adopted by the department; or
- (k) Post traumatic syndrome disorder.

(L) any other medical condition or treatment for a medical condition approved by the [REDACTED] DEPARTMENT. The Department may consult with any medical experts it needs to assist in its decision.

(3) "Department" means the department of public health and human services.

(4) "Licensed premises" means the premises at which a therapeutic marijuana grower, a therapeutic marijuana-infused products manufacturer, or a registrant of a grower or manufacturer is authorized to cultivate, manufacture, or provide therapeutic marijuana or therapeutic marijuana-infused products.

(5) "Licensee" means a [REDACTED], personal production assistant, therapeutic marijuana grower, or therapeutic marijuana-infused products manufacturer that has received a license pursuant to [sections 17 through 40].

(6) "Limited access area" means a building, room, or other contiguous area on a licensed premises to which only persons licensed or registered by the state licensing authority pursuant to [sections 17 through 40] may have access.

(7) "Local government" means a county, a consolidated government, or an incorporated city or town.

(8) "Marijuana" has the meaning provided in 50-32-101.

(9) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(10) "Paraphernalia" has the meaning provided in 45-10-101.

(11) (a) "Personal production assistant" means an individual 18 years of age or older who is licensed pursuant to [sections 17 through 40] and who has agreed to assist a registered cardholder as allowed under [section 23].

(b) The term does not include the cardholder's primary care or referral physician.

(12) "Primary care physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the patient.

(13) "Qualifying patient" means a person who has been diagnosed by a physician or physicians as having a debilitating medical condition.

(14) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the ~~person~~ PHYSICIAN to whom a patient's primary care physician has referred the patient for physical examination and medical assessment.

(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(17) "Registry identification card" means a document issued by the department pursuant to [section 4] that identifies an individual as a registered cardholder.

(18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 40] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

(20) "Standard of care" means, AT A MINIMUM:

(a) the following activities when undertaken by a patient's primary care physician OR REFERRAL PHYSICIAN if the primary care physician OR REFERRAL PHYSICIAN is providing written certification for a patient with a debilitating medical condition:

(i) obtaining the patient's medical history;

(ii) performing a relevant physical examination;

(iii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iv) obtaining and reviewing ANY NECESSARY AND relevant diagnostic test results related to the debilitating medical condition;

(v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(vi) monitoring the response to treatment and possible adverse effects; and

(vii) creating and maintaining patient records that remain with the physician; or

(b) the following activities undertaken by a referral physician when the referral physician THE SECOND PHYSICIAN WHO is providing written certification FOR A MINOR [REDACTED]

(i) obtaining the patient's medical history;

(ii) reviewing prior treatment and treatment response for the debilitating medical condition;

(iii) obtaining and reviewing ANY NECESSARY AND relevant diagnostic test results related to the debilitating medical condition; and

(iv) creating and maintaining patient records that remain with the physician.

(21) "State licensing authority" means the public service commission [REDACTED] Department of Agriculture.

(22) "Therapeutic marijuana" means marijuana that is cultivated, manufactured, transferred, or used for therapeutic use.

(23) "Therapeutic marijuana grower" means an organization that meets the requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to cultivate marijuana at a licensed premises.

(24) (a) "Therapeutic marijuana-infused product" means a product that contains therapeutic marijuana and is intended for therapeutic use by means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(25) "Therapeutic marijuana-infused products manufacturer" means an organization that meets the requirements of [section 20] and is licensed pursuant to [sections 17 through 40] to manufacture therapeutic marijuana-infused products.

(26) "Therapeutic use" means:

(a) for a registered cardholder, the possession, cultivation, manufacture, transportation, or use of marijuana or paraphernalia by a registered cardholder to alleviate the symptoms or effects of the cardholder's debilitating medical condition; and

(b) for a licensee, the cultivation, manufacture, transportation, or storage of therapeutic marijuana or the possession and use of paraphernalia for the manufacture of therapeutic marijuana:

(i) as allowed by the applicable license; and

(ii) solely for use by a registered cardholder.

(27) "Written certification" means a statement signed by a physician stating that:

(a) the physician has completed a full assessment of the qualifying patient's medical history and current medical condition;

(b) the assessment meets the standard of care;

(c) the qualifying patient has a debilitating medical condition; and

(d) the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the qualifying patient.



NEW SECTION. Section 3. Registry identification cards – minors -- exceptions -- ~~report~~
REPORTS to legislature. (1) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who meet the requirements of [sections 1 through 40].

(2) Except as provided in subsections (4) and (5), the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

(a) written certification that the person is a qualifying patient;

(b) for a qualifying patient whose medical condition is severe chronic pain a written statement from their physician that in their medical opinion based on a through exam, review of medical records and any necessary and relevant [REDACTED] diagnostic tests, including but not limited to x-rays, a computerized tomography scan, or magnetic resonance imaging their patient should be treated with therapeutic medical marijuana.

(c) an application fee or renewal fee;

(d) the name, address, and date of birth of the qualifying patient;

(e) proof of Montana residency;

(f) the name, street address, and telephone number of the qualifying patient's primary care physician and referral physician, if any;

(g) a statement on a form prescribed by the department pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40];

(h) a statement indicating that the qualifying patient intends to:

(i) cultivate [REDACTED] their own therapeutic marijuana; or

(ii) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer; OR

[REDACTED]
[REDACTED]
[REDACTED];

(i) (i) the name, street address, and date of birth of the individual's personal production assistant, if any; or

(ii) (iii) an application for approval to acquire therapeutic marijuana from a therapeutic marijuana grower or therapeutic-marijuana infused products manufacturer, IF APPLICABLE.

(3) A registered cardholder may have only one personal production assistant if the cardholder chooses to cultivate and manufacture therapeutic marijuana ~~rather than obtain the marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer.~~

(4) The department shall issue a registry identification card to a minor if the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) submits the materials required under subsection (2);

(b) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(c) signs and submits a written statement that:

(i) two physicians have explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the therapeutic use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the therapeutic use of marijuana by the minor;

(B) agrees to be the sole person that provides the minor with therapeutic use of marijuana. [REDACTED]
[REDACTED]

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the therapeutic use of marijuana by the minor;

(D) submits fingerprints to facilitate a finger print and background check by the department of justice and the federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not be licensed if the parent or legal guardian does not meet the requirements of [sections 1 through 40].

(E) pledges, on a form prescribed by the department, not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40].

(5) The application for a minor must include written certification and the statements required under [section 5] from:

(a) the primary care physician who is recommending marijuana for therapeutic use; and

(b) a second physician who has conducted a comprehensive review of the minor's medical record as maintained by the minor's primary care physician and who is recommending marijuana for therapeutic use by the minor.

(6) An individual may not be a registered cardholder if the individual is IN THE CUSTODY OF OR under the supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court.

(7) (a) The department [REDACTED] must have complete application materials and may verify any questionable documentation that is submitted and shall approve or deny the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the application or renewal.

(b) The department may deny an application or renewal only:

(i) if the applicant did not provide the information required pursuant to this section;

(ii) if the department determines that the information was falsified;

(iii) if the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 40]; or

(iv) for other reasons specified by the department by rule.

(c) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(8) The department shall issue a registry identification card with a unique identification number within 15 days of approving an application or renewal. Registry identification cards expire 1 year after the date of issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of time. A registry identification card must state:

- (a) the name, street address, and date of birth of the registered cardholder;
- (b) the name and street address of the primary care physician or referral physician, if any, who provided the written certification for the cardholder;
- (c) the date of issuance and expiration date of the registry identification card; and
- (d) other information that the department may specify by rule.

(9) The department shall provide the state licensing authority with the identification card number of each registered cardholder who indicates on the application that the cardholder intends to:

(a) obtain therapeutic marijuana from a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer;

(b) use a personal production assistant.

(10) (a) A registered cardholder shall notify the department within 10 days of any change in the:

(i) cardholder's street address, physician, or personal production assistant;

(ii) status of the cardholder's debilitating medical condition.

(b) If a change occurs and is not reported to the department, the registry identification card is void.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The department may not provide any identifying information of cardholders or physicians.

[(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE, AS PROVIDED IN 37-3-203, ON THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE THERAPEUTIC USE OF MARIJUANA.]

NEW SECTION. Section 4. Written certification -- accompanying statements -- required notification to board of medical examiners. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The form must include:

(a) the physician's name, license number, office address, and telephone number on file with the board of medical examiners and the physician's BUSINESS e-mail address, IF ANY; and

(b) the qualifying patient's name, date of birth, and debilitating medical condition.

(2) A physician who is providing written certification for a qualifying patient 18 years of age or older or who is the primary care provider for a minor applying for a registry identification card shall provide:

(a) a statement initialed by the physician that the physician:

(i) has a BONA FIDE professional relationship with the qualifying patient. [REDACTED]

(ii) has assumed primary responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a comprehensive medical history and physical examination that included a personal review of any medical records maintained by other treating physicians and that may have included the qualifying patient's reaction and response to conventional medical therapies;

(iii) has reviewed all prescription and nonprescription medications and supplements used by the qualifying patient and has considered the potential drug interaction with marijuana;

(iv) has explained the potential risks and benefits of the therapeutic use of marijuana to the qualifying patient; and

(v) plans to continue to assess the patient and the patient's therapeutic use of marijuana during the course of the physician-patient relationship;

(b) a statement that in the physician's professional opinion the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the qualifying patient; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for therapeutic use by a minor [REDACTED]

shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the primary care physician or documented the qualifying patient's severe chronic pain as required pursuant to [sections 1 through 40];

(b) a statement that in the physician's professional opinion, the potential benefits of the therapeutic use of marijuana would likely outweigh the health risks for the minor or qualifying patient; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

NEW SECTION. Section 5 Unlawful conduct by cardholder – penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the cardholder's card for any purpose.

(2) ~~A violation of~~ **A REGISTERED CARDHOLDER WHO VIOLATES** [sections 1 through 16] is punishable by a fine not to exceed ~~\$10,000~~ **\$500** or by imprisonment in a county jail for a term not to exceed ~~1-year~~ **6 MONTHS**, or both, unless otherwise provided in [sections 1 through 16] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 6. Prohibitions on physician affiliation with therapeutic marijuana licensees. (1) (a) A physician may not:

(i) accept or solicit anything of value, including monetary remuneration, from a licensee or registrant or offer anything of value to a licensee or registrant;

(ii) offer a discount or any other thing of value to an individual who uses or agrees to use a particular licensee;

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where therapeutic marijuana is grown, manufactured, sold, or distributed; or

(iv) hold an economic interest in an enterprise engaged in the therapeutic use of marijuana if the physician certifies the debilitating medical condition of an applicant for a registry identification card.

(b) This subsection (1) does not prevent a physician from accepting a fee for providing medical care to a licensee or a registrant if the physician charges the licensee or registrant the same fee as the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to [sections 1 through 40], or has not met the standard of care required under [sections 1 through 40], the department may refer the matter to the board of medical examiners for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct as set out in 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the therapeutic use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict, as provided in 2-4-631, a physician's authority to provide written certification for the therapeutic use of marijuana.

NEW SECTION. **Section 7. Local government authority to regulate.** (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer that operates within the local government's jurisdictional area. The regulations may include but are not limited to:

- (a) restrictions on number, visibility, signage and location;
- (b) business licensing requirements;
- (c) building codes and standards; and
- (d) the inspection of businesses to ensure compliance with any sanitary

requirements established by the state licensing authority.

(2) An incorporated city or town may adopt an ordinance or resolution that prohibits the cultivation or manufacture of therapeutic marijuana by a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer within its jurisdictional area. An incorporated city or town that enacts a prohibition on doing business must give an existing business one year to relocate their business.

NEW SECTION. Section 9. Health care facility procedures for patients who are registered cardholders. (1) Except for hospices that allow the therapeutic use of marijuana as provided in [section 14], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has therapeutic marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the therapeutic marijuana from the premises before the patient is admitted, if the patient is able to do so;

(b) make a reasonable effort to contact the patient's personal production assistant or a courier; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A personal production assistant or courier contacted by a health care facility shall remove the therapeutic marijuana without charge to the health care facility and deliver it to the cardholder's residence or to a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer for storage until the patient is discharged from the facility. The personal production assistant or courier may return the therapeutic marijuana to the cardholder upon the cardholder's discharge from the facility.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and storing the therapeutic marijuana until the patient is discharged from the facility.

(4) If the therapeutic marijuana is being held by a law enforcement agency, the patient may pick up the therapeutic marijuana upon discharge from the hospital at no cost to the patient.

(5) A health care facility may not be charged for costs related to removal of therapeutic marijuana from the facility's premises.

NEW SECTION. Section 8. Therapeutic use of marijuana -- limits on amount -- presumption of therapeutic use. (1) (a) Marijuana for therapeutic use may be cultivated or manufactured by:

(i) a registered cardholder who has indicated to the department that the cardholder will grow therapeutic marijuana for personal use at the cardholder's residence;

(ii) a therapeutic marijuana grower; or

(iii) a therapeutic marijuana-infused products manufacturer that has also obtained a therapeutic marijuana grower license.

(b) A cardholder who lives in a rental property must have the landlord's WRITTEN permission to cultivate or manufacture therapeutic marijuana in or on the rental property.

(2) (a) A registered cardholder may possess up to ■ 3 mature marijuana plants, ■ 6 seedlings, and a maximum of 2 ounces of usable marijuana. EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE CARDHOLDER SHALL KEEP THE MARIJUANA at the cardholder's residence.

(b) A registered cardholder may not be in possession of more than 1 ounce OF THE CARDHOLDER'S USABLE MARIJUANA when the cardholder is outside of the cardholder's residence.

(3) A therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer may provide no more than 2 ounces of usable marijuana or its equivalent in an infused product to a registered cardholder during a 30-day period. The licensee shall maintain records of transactions with cardholders to verify that the licensee has met the requirements of this section.

(4) Marijuana for therapeutic use by registered cardholders must be grown and manufactured in Montana.

(5) (a) A registered cardholder , ■ licensee, employee or contractor is presumed to be engaged in the therapeutic use of marijuana if the cardholder or licensee:

(i) is in possession of a registry identification card or an appropriate license; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 40].

(iii) is transporting therapeutic marijuana to a patient and is in possession of a copy of the license of the grower or manufacturer and has their state issued identification card from the state licensing authority and the unique identification number of the registered card holder(s) that the delivery is going to.

(b) The presumption may be rebutted by clear and convincing evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

NEW SECTION. Section [REDACTED]. 9. Confidentiality of registry information -- disclosure. (1) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department and the state licensing authority as necessary to perform official duties of the department or state licensing authority; or

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(2) A [EXCEPT AS PROVIDED IN 37-3-203.] A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to therapeutic use of marijuana if the person knowingly or purposely discloses confidential information in violation of this section.

(3) A person convicted of disclosure of confidential information relating to therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

NEW SECTION. Section [REDACTED]. 10. Legal protections for therapeutic use. (1) AN EXCEPT AS PROVIDED IN [SECTION 14] AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7), AN individual who possesses a registry identification card issued pursuant to [section 4] or a person licensed, employed by a license or contracting with a licensee [REDACTED] pursuant to [sections 17 through 40] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry solely because:

(a) the registered cardholder acquires, possesses, cultivates, or manufactures marijuana not in excess of the amounts allowed under [section 10];

(b) the registered cardholder uses therapeutic marijuana; or

(c) the licensee [REDACTED], employee or contractor of the licensee, undertakes the activities allowed under the applicable license. [REDACTED].

(2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners

[REDACTED], solely for providing written certification for the therapeutic use of marijuana to qualifying patients.

(3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

- (a) an individual's therapeutic use of marijuana impairs the individual's job-related performance; or
- (b) a physician violates the standard of care or other requirements of [sections 1 through 40].

(4) An interest in or right to property that is possessed, owned, or used in connection with the therapeutic use of marijuana or acts incidental to therapeutic use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the therapeutic use of marijuana as permitted under [sections 1 through 40].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of the therapeutic use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 37], possession of or application for a registry identification card or a license does not alone constitute probable cause to search the individual or the property of the individual or entity possessing or applying for the registry identification card, license, or registration or otherwise subject the individual or property of the individual or entity possessing or applying for the card or license to inspection by any governmental agency, including a law enforcement agency.

(7) THE PROVISIONS OF SUBSECTION (1) RELATING TO PROTECTION FROM ARREST OR PROSECUTION DO NOT APPLY TO AN INDIVIDUAL UNLESS THE INDIVIDUAL HAS OBTAINED A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION PRIOR TO AN ARREST OR THE FILING OF A CRIMINAL CHARGE. IT IS NOT A DEFENSE TO A CRIMINAL CHARGE THAT AN INDIVIDUAL OBTAINS A REGISTRY IDENTIFICATION CARD, LICENSE, OR REGISTRATION AFTER AN ARREST OR THE FILING OF A CRIMINAL CHARGE.

NEW SECTION. **Section [REDACTED] 11. Registry card or license to be carried and exhibited on demand -- photo identification required.** A registered cardholder or an individual licensed or registered pursuant to [sections 1 through 40] shall have the cardholder's registry identification card or the individual's license

or registration in the individual's immediate possession at all times. The individual shall display the registry identification card, license, or registration and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 12. Limitations of therapeutic marijuana act -- penalties. (1)

[Sections 1 through 40] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana;

(b) the use of marijuana by a licensee;

(c) except as provided in subsection (3), the therapeutic use of marijuana:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school; or

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes; or

(d) the smoking of marijuana by a registered cardholder:

(i) in a school bus or other form of public transportation;

(ii) in a correctional facility;

(iii) at a public park, public beach, public recreation center, or youth center;

(iv) in plain view of or in a place open to the general public; or

(v) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A cardholder or licensee may not cultivate or manufacture therapeutic marijuana in a manner that is visible from the street or other public area.

(3) A licensed hospice, nursing home, or assisted living facility may adopt a policy that allows therapeutic use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 40] may be construed to require:

(a) a government medical assistance program ~~or private health insurer~~, A GROUP BENEFIT PLAN THAT IS COVERED BY THE PROVISIONS OF TITLE 2, CHAPTER 18, AN INSURER COVERED BY THE

PROVISIONS OF TITLE 33, OR AN INSURER AS DEFINED IN 39-71-116 to reimburse a person for costs associated with the therapeutic use of marijuana; or

(b) an employer to accommodate the therapeutic use of marijuana ~~in any workplace~~.

(5) NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO:

(A) PROHIBIT AN EMPLOYER FROM INCLUDING IN ANY CONTRACT A PROVISION PROHIBITING THE THERAPEUTIC USE OF MARIJUANA; OR

(B) PERMIT A CAUSE OF ACTION AGAINST AN EMPLOYER FOR WRONGFUL DISCHARGE PURSUANT TO 39-2-904 OR DISCRIMINATION PURSUANT TO 49-1-102.

~~(5)(6)~~ Nothing in [sections 1 through 40] may be construed to allow a licensee or registrant to use marijuana or to prevent criminal prosecution of a licensee or registrant who uses marijuana or paraphernalia for personal use.

~~(6)(7)~~ (a) An individual who violates subsection (1)(a) is subject to a revocation of the individual's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(b) If an individual's registry identification card is subject to renewal during the revocation period, the individual may not renew the card until the full revocation period has elapsed. The card subsequently may be renewed only if the individual submits all materials required for renewal.

NEW SECTION. Section 13. Fraudulent representation of therapeutic use of marijuana -- penalty. (1) A person commits the offense of fraudulent representation of therapeutic use of marijuana if the person knowingly or purposely fabricates or misrepresents to a law enforcement officer a registry identification card, license, or registration issued pursuant to [sections 1 through 40].

(2) A person convicted of fraudulent representation of therapeutic use of marijuana shall be fined not to exceed ~~\$1,000~~ \$500 or be imprisoned in the county jail for a term not to exceed ~~4-year~~ 6 MONTHS, or both.

NEW SECTION. Section [REDACTED] 14. Rulemaking -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 16]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for qualifying patients and renewal of registry identification cards for registered cardholders;

(b) the acceptable forms of proof of Montana residency;

(e) the circumstances under which the department will notify the board of medical examiners of potential violations of [section 7]; and

(f) other rules necessary to implement the purposes of the regulation of therapeutic marijuana.

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 16]. The department may vary the application and renewal fees along a sliding scale that accounts for an applicant's income.

NEW SECTION. Section [REDACTED] 15. State licensing authority. (1) The state licensing authority may hire employees to carry out the responsibilities assigned under [sections 17 through 40]. The employees are employees of the ~~public service commission~~ [REDACTED] AGRICULTURE.

(2) The operational costs of the state licensing authority related to carrying out its responsibilities under [sections 17 through 40] must be fully funded by fees paid by licensees and registrants. The costs include but are not limited to the costs of the authority's licensing, inspection, and investigation duties and operation of the hotline provided for in [section 39].

NEW SECTION. Section [REDACTED] 16. State licensing authority -- powers and duties -- rulemaking authority. (1) (A) THE STATE LICENSING AUTHORITY SHALL [REDACTED] ISSUE LICENSES [REDACTED] FOR THERAPEUTIC MARIJUANA GROWERS, THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURERS. [REDACTED]

[REDACTED] THE STATE LICENSING AUTHORITY SHALL DO [REDACTED] REVIEWS EVERY TWO YEARS OF THE NUMBER OF REGISTERED CARDHOLDERS [REDACTED]

(B) BASED UPON ITS [REDACTED] PERIODIC REVIEWS OF THE NUMBER OF REGISTERED CARDHOLDERS AND THE RESULTING NEED FOR THERAPEUTIC MARIJUANA, THE STATE LICENSING AUTHORITY MAY:

(I) ISSUE TEMPORARY LICENSES; NOT RENEW LICENSES AND/OR
(II) REDUCE THE NUMBER OF PLANTS, SEEDLINGS, CUTTINGS, AND CLONES AND THE INVENTORY OF USABLE MARIJUANA A GROWER MAY CULTIVATE, MANUFACTURE, OR POSSESS.

~~(1)~~(2) The state licensing authority shall:

(a) grant or refuse state licenses for the cultivation, manufacture, distribution, transportation, and provision of therapeutic marijuana as provided by law;

(b) suspend, restrict, or revoke licenses upon violation of [sections 1 through 40] or a rule adopted pursuant to [sections 1 through 40];

(c) impose fines and penalties authorized by [sections 17 through 40] or a rule adopted pursuant to [sections 17 through 40];

(d) take any action with respect to a registrant that it may take with respect to a licensee;

(e) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, [REDACTED], and provision of therapeutic marijuana and for the enforcement of [sections 1 through 40];

(f) hear and determine at a public hearing:

(i) an appeal of a state license denial; or

(ii) a complaint against a licensee;

(g) administer oaths and issue subpoenas to require the presence of persons and the production of materials necessary for a hearing held pursuant to this section;

(h) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of therapeutic marijuana provided to a particular individual or any other records that are exempt from public inspection pursuant to state law;

(i) develop the forms, licenses, identification cards for licensees, their employees and contractors , and applications necessary for the administration of [sections 17 through 40]; and

(j) report annually to the legislature the number of applications received and granted for each type of license, the geographic locations of licensees, the number of registered cardholders served by each licensee, and the number and types of licenses revoked by the state licensing authority. The report may not provide any individually identifying information about licensees.

~~(2)~~(3) A hearing held pursuant to this section must comply with the provisions of Title 2, chapter 4.

~~(3)~~(4) The state licensing authority may adopt rules to carry out its duties and responsibilities, including but not limited to rules related to:

(a) licensing procedures, including:

(i) procedures for applications for initial licenses, renewals, and reinstatements;

(ii) procedures for approval, denial, or suspension of a license;

(iii) provisions for fines and license restrictions or revocations;

(iv) the procedure and fees for submitting fingerprints for background checks; and

(v) the fees to be charged for license applications, license issuance, license renewals or reinstatements, applications to change locations, and applications to transfer ownership. The fees must cover the operational costs of the state licensing authority.

(b) the duties of officers and employees of the state licensing authority;

(c) requirements for inspections, investigations, searches, and seizures;

(d) penalties for violation of the provisions of [sections 17 through 40];

(e) prohibitions on misrepresentation and unfair practices;

(f) control of informational and product displays on licensed premises;

(g) development of individual identification cards for officers, managers, contractors, employees, and other support staff of entities licensed or registered by the state licensing authority pursuant to [sections 17 through 40];

(h) security requirements for a licensed premises including, at a minimum, the lighting, physical security, video, and alarm requirements and other minimum procedures for internal control as determined necessary for the proper administration and enforcement of [sections 1 through 40];

(i) requirements for reporting changes, alterations, or modifications to a licensed premises;

(j) the storage of and transportation of therapeutic marijuana;

- (k) sanitary requirements for therapeutic marijuana growers and for therapeutic marijuana-infused products manufacturers;
 - (l) the acceptable forms of photo identification that a licensee may accept when verifying a transaction;
 - (m) labeling standards;
 - (n) records to be kept by licensees and the required availability of the records, including the availability of information ensuring payment of applicable taxes;
 - (o) the sharing of information with other state agencies and with state and local law enforcement agencies;
 - (p) the use of genetic markers, if feasible, to verify the source of marijuana in a registered cardholder's possession or confiscated by a law enforcement agency; and
 - (q) other rules necessary to carry out the provisions of [sections 1 through 40].
- ~~(4)~~(5) Nothing in [sections 1 through 40] may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a licensee or registrant. A law enforcement agency may run a Montana criminal justice information network criminal history record check of a licensee or [REDACTED] their employees or contractors during an investigation of unlawful activity related to therapeutic marijuana.

NEW SECTION. Section [REDACTED] **17. Requirements for provision of therapeutic marijuana.** (1) The state licensing authority shall establish by rule a process by which registered cardholders who plan to obtain therapeutic marijuana from a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer are provided with information about the grower or manufacturer from which the therapeutic marijuana may be obtained.

(2) A registered cardholder may [REDACTED] obtain therapeutic marijuana directly from a therapeutic marijuana grower or therapeutic marijuana-infused product manufacturer.

(3) The rules must include but are not limited to:

(a) [REDACTED] Identification cards for the licensee and their employees and anyone they contract with in the growing, manufacturing or transportation of their products. the use of a courier to transport and deliver therapeutic marijuana;

(b) the manner in which licensees will ensure that therapeutic marijuana is provided only to registered cardholders; and

(c) the procedures a licensee shall follow if the licensee has reasonable cause to believe an individual is using a fraudulent registry identification card in an effort to obtain therapeutic marijuana.

(d) Any grow operation, manufacturer or storefront or office used for the therapeutic marijuana business must use the symbol TM or other symbol required by the state licensing authority along with their approved business name that does not draw attention to their business as a therapeutic marijuana business for the protection of the public.

(4) A licensee [REDACTED] MUST provide ~~a small~~ AN amount of its therapeutic marijuana or therapeutic marijuana-infused product for testing to a laboratory that is registered pursuant to rules adopted by the state licensing authority pursuant to [sections 1 through 40]. THE STATE LICENSING AUTHORITY MAY DETERMINE BY RULE THE AMOUNT OF THERAPEUTIC MARIJUANA THAT MAY BE PROVIDED FOR TESTING.

(5) Therapeutic marijuana and marijuana-infused products must be labeled with a list of all chemical additives that were used in the cultivation and production of the therapeutic marijuana or marijuana-infused product, including but not limited to nonorganic pesticides, herbicides, and fertilizers.

NEW SECTION. Section [REDACTED] 18. Organizations eligible for certain licenses -- requirements. (1)

To qualify for licensure as a therapeutic marijuana grower or a therapeutic marijuana-infused products manufacturer, an applicant must : [REDACTED]

[REDACTED]

[REDACTED] provide the state licensing authority with:

(a) proof of the organization's structure of control;

(b) a list of all individuals:

(i) with direct or indirect authority over the management policies of the facility; and

(ii) having a 5% or greater ownership in the licensed premises, whether the ownership is direct or indirect and is in land, buildings, or other materials. The information must include owners of any entity that owns all or part of the land.

(c) a brief business plan showing how the organization will fund operations during the first [REDACTED] 3 years of licensing, including the funding sources to be used;

(d) a description of the facility that will be used for the production of therapeutic marijuana; and

(e) other information as required by the state licensing authority.

NEW SECTION. Section [REDACTED]. 19. Classes of licenses -- disclosure -- confidentiality. (1) The state licensing authority may issue:

(b) a personal production assistant license;

(c) a therapeutic marijuana grower license;

(d) a therapeutic marijuana-infused products manufacturer license; and

(e) [REDACTED] **IDENTIFICATION**

CARDS FOR managers, operators, employees, contractors, and other support staff employed by, working in, or having access to a limited access area of a licensed premises.

(2) The state licensing authority may take any action with respect to a registrant pursuant to [sections 17 through 40] that it may take with a licensee.

(3) The state licensing authority shall provide each appropriate local law enforcement agency with the name and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose the information to authorized employees of the agency as necessary to verify that a therapeutic marijuana operation is licensed and is in compliance with the provisions of [sections 17 through 40].

[REDACTED]

NEW SECTION. Section 23. Personal production assistants -- requirements -- allowable activities. (1) The state licensing authority shall issue a license to an individual who is named as a personal production assistant in a registered cardholder's approved application if the individual:

- (a) registers the individual's street address with the state licensing authority;
- (b) signs a statement:
 - (i) agreeing to:
 - (A) assist in cultivating or manufacturing therapeutic marijuana only for registered cardholders who have named the applicant as their personal production assistant;
 - (B) transport therapeutic marijuana only as allowed in [section 9]; and
 - (C) notify the state licensing authority and other regulatory entities within 10 days of any change in the individual's street address or in the street address where the therapeutic marijuana is cultivated or manufactured; and
 - (ii) acknowledging that the individual may not engage in the use of therapeutic marijuana or use paraphernalia for any purpose other than cultivating or manufacturing marijuana for therapeutic use by a registered cardholder; and

(iii) pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to [sections 1 through 40];

(c) undergoes the licensing procedures established in [section 26]; and

(d) is not prohibited from licensure under the provisions of [section 27].

(2) An individual may serve as a personal production assistant for no more than four registered cardholders unless the state licensing authority approves a personal production assistant to serve more than four patients because of exceptional circumstances. Exceptional circumstances include but are not limited to the registered cardholder's proximity to a therapeutic marijuana grower or therapeutic marijuana-infused products manufacturer.

(3) A personal production assistant may not:

(a) receive compensation for activities allowed under [sections 1 through 40];

(b) hold any other license issued under [sections 17 through 40];

(c) delegate to another person the personal production assistant's authority to assist in the production of therapeutic marijuana for a cardholder or engage others to assist in the production of therapeutic marijuana for a cardholder; or

(d) cultivate or manufacture therapeutic marijuana at a location other than the residence of the registered cardholder.

(4) A personal production assistant shall maintain at all times a list of the registered cardholders who have named the individual as their personal production assistant. The list must include the registry identification card number of each patient and must be provided to a law enforcement agency upon request.

NEW SECTION. **Section [REDACTED]. 20. Therapeutic marijuana grower -- requirements -- allowable activities.** (1) An organization licensed as a therapeutic marijuana grower shall cultivate marijuana at a licensed premises.

(2) A therapeutic marijuana grower shall:

(a) limit its therapeutic marijuana production to:

(ii) the number of plants, seedlings, cuttings, and clones and inventory of usable marijuana set by the state licensing authority [REDACTED] IN GRANTING THE LICENSE and

(b) submit to the state licensing authority an acknowledgment that it will not exceed allowable production limits.

(3) A therapeutic marijuana grower may:

(a) sell marijuana to a therapeutic marijuana-infused products manufacturer as allowed by the state licensing authority; ~~and~~

(b) contract with a courier to deliver therapeutic marijuana to a registered cardholder OR

THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER; AND

(C) TRANSFER THERAPEUTIC MARIJUANA TO ANOTHER THERAPEUTIC MARIJUANA GROWER AS PROVIDED BY RULE.

[REDACTED]

(5) Therapeutic marijuana may not be used in any form on the licensed premises.

NEW SECTION. Section [REDACTED] 21. Therapeutic marijuana-infused products manufacturer -- allowable activities. (1) An organization licensed as a therapeutic marijuana-infused products manufacturer shall:

(a) prepare therapeutic marijuana-infused products on a licensed premises that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products;

(b) use equipment that is used exclusively for the manufacture and preparation of therapeutic marijuana-infused products; and

(c) if it does not have a therapeutic marijuana grower license, execute a written agreement or contract with a therapeutic marijuana grower that states at a minimum:

(i) the total amount of therapeutic marijuana to be obtained from the therapeutic marijuana grower and used in the manufacturing process; and

(ii) the total amount of therapeutic marijuana-infused products to be manufactured from the therapeutic marijuana obtained from the therapeutic marijuana grower.

(2) All licensed premises on which therapeutic marijuana-infused products are manufactured must meet:

(a) the sanitary standards for therapeutic marijuana-infused product preparation adopted by the state licensing authority; and

(b) any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(3) The state licensing authority shall determine the maximum amount and forms of marijuana that;

(A) a therapeutic marijuana-infused products manufacturer may obtain from a therapeutic marijuana grower; OR

(B) A THERAPEUTIC MARIJUANA GROWER OR THERAPEUTIC MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY PROVIDE TO A REGISTERED CARDHOLDER WHO IS ALSO CULTIVATING OR MANUFACTURING THERAPEUTIC MARIJUANA FOR THE CARDHOLDER'S USE.

(4) A therapeutic marijuana-infused product must be prepackaged and labeled in accordance with rules adopted by the state licensing authority to indicate at a minimum that:

(a) the product contains therapeutic marijuana;

(b) the product is manufactured without any regulatory oversight for efficacy; and

(c) health risks may be associated with the consumption or use of the product.

(5) Therapeutic marijuana and therapeutic marijuana-infused products may not be consumed on a licensed premises.

(6) A therapeutic marijuana-infused products manufacturer that also has a therapeutic marijuana grower license may use the marijuana from the licensed premises affiliated with its grower license only for the purposes of making therapeutic marijuana-infused products at its manufacturing premises.

(7) Therapeutic marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

NEW SECTION. Section [REDACTED]. 22. Licensing procedures -- background checks. (1) An applicant for a license [REDACTED] shall submit the following, in accordance with rules adopted by the state licensing authority:

(a) the name and street address of the applicant;

(b) the names and street addresses of the officers, directors, or managers involved with the applicant;

(c) the street address or physical description, if no street address is available, where the applicant's facility will be located;

- (d) application and licensing fees as established by the state licensing authority in rule; and
 - (e) any other information required by the state licensing authority.
- (2) Payment of the fee and submission of an application do not create an entitlement to receive a license or a registration.
- (3) (a) An applicant shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation.
- (b) The state licensing authority may acquire a name-based criminal history record check for an applicant, licensee, [REDACTED] who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.
- (4) The state licensing authority shall use the information resulting from a criminal history record check conducted under this section to investigate and determine whether an applicant is qualified to hold a state license or registration pursuant to [sections 17 through 40]. The state licensing authority may verify any information an applicant is required to submit.
- (5) (a) Except as provided in subsection (6)(b), a license [REDACTED] issued pursuant to this section is valid for [REDACTED] 3 years from the date of issuance unless revoked or suspended pursuant to [section 36 or 38].
- (b) A personal production assistant license is valid for:
- (i) the same period of time as the registry identification cards for the registered cardholders who have named the individual as their personal production assistant; or
 - (ii) a maximum of 2 years if the registry identification card of at least one of the registered cardholders who have named the individual as their personal production assistant would expire more than 2 years after the individual was first licensed.
- (6) Each license [REDACTED] issued under [sections 17 through 40] is separate and distinct. A licensee or registrant may not:
- (a) exercise any of the privileges granted under a license [REDACTED] other than the license [REDACTED] [REDACTED] holds; or
 - (b) allow another person to exercise the privileges granted under the license or registration.
- (7) (a) A licensee shall notify the state licensing authority in writing of the name, street address, and date of birth of a new officer, manager, [REDACTED] or employee, CONTRACTOR before the new officer, manager, or employee begins working at, managing, or being associated with the licensee.

(b) Before the individual may begin the association with the licensee, the individual shall:

- (i) submit fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation; and
- (ii) obtain [REDACTED] OFFICIAL identification cards required by the state licensing authority.

NEW SECTION. Section [REDACTED] 23. **Persons prohibited as licensees.** The state licensing authority may not issue a license to:

- (1) an individual with a felony conviction;
- (2) a licensed physician providing written certification for the therapeutic use of marijuana;
- (3) an individual WHO IS IN THE CUSTODY OF OR under the supervision of the department of corrections, A DISTRICT COURT, A COURT OF LIMITED JURISDICTION, or a youth court;
- (4) a licensee who, during a period of licensure or at the time of application, has failed to:
 - (a) pay any taxes, interest, or penalties due;
 - (b) pay a judgment due to a government agency;
 - (c) stay out of default on a government-issued student loan;
 - (d) pay child support; or
 - (e) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;
- (5) a person who employs an individual who has not passed a criminal history record check;
- (6) a peace officer, as defined in 45-2-101;
- (7) an officer or employee of the state licensing authority;
- (8) a person whose authority for a license of a different class has been revoked by the state licensing authority;
- (9) a person for a license for a location that is currently licensed pursuant to 50-57-201 as an establishment or a retail food establishment; or
- (10) an individual who has not been a resident of Montana for at least 5 years prior to the date of the person's application.

NEW SECTION. Section [REDACTED] 24. **Denial of license.** (1) The state licensing authority shall deny a license to an applicant or licensee if:

(a) the premises on which the applicant proposes to conduct operations do not meet the requirements of [sections 1 through 40];

(b) the applicant does not meet or fails to comply with any of the terms, conditions, or provisions of [sections 1 through 40] or any rules adopted by the state licensing authority;

(c) the applicant fails to comply with any special terms or conditions that were placed on its license; or

(d) the licensed premises has been operated in a manner that adversely affects the public health or welfare or the safety of the community in which the licensed premises is located.

(2) An applicant who is denied a license pursuant to subsection (1) is entitled to a hearing pursuant to Title 2, chapter 4. The state licensing authority shall provide written notice of the reasons for denial at least 15 days before the hearing.

NEW SECTION. Section 25. Restrictions applicable to new licenses -- local government authority. (1) The state licensing authority may not accept or approve an application for a license:

(a) until it is established that the applicant is or will be entitled to possession of the premises through a lease, rental agreement, or other arrangement for possession or by virtue of ownership of the premises;

(b) for a location in an area where the cultivation, manufacture, and provision of therapeutic marijuana as contemplated is not permitted under the applicable local government zoning laws; or

(c) if the building in which therapeutic marijuana is to be cultivated or manufactured is located within 2,000 feet of a school, a family or group day-care home as defined in 52-2-703, an alcohol or drug treatment facility, or the principal campus of a postsecondary school or seminary. The distance must be measured in a straight line from the nearest property line of the land used for a school, day-care home, alcohol or drug treatment center, campus, or seminary to the nearest portion of the building to be used by the applicant.

(2) A local government may by ordinance or resolution vary the distance restrictions imposed by this section or may eliminate one or more types of schools, campuses, or facilities from the application of a distance restriction.

NEW SECTION. Section 26. Licenses -- contents and display. (1) A license issued pursuant to [sections 17 through 40] must specify the date of issuance, the period of licensure, the name of the licensee, and the premises that is licensed.

- (2) The license must be conspicuously displayed at all times at the premises for which it is issued.
- (3) The licensee shall at all times possess and maintain possession of the premises for which the license is issued. Possession may be by ownership, lease, rental, or other arrangement.
- (4) A DUPLICATE LISENCE MUST BE DISPLAYED IN ANY STORFRONT OR OFFICE WHERE THE LICENSEE DOES BUSINESS.

NEW SECTION. Section . 27. transactions

- (2) A licensee shall retain all documents related to transactions involving therapeutic marijuana, including documents verifying the type of payment used for the transaction.
- (3) A licensee shall make all documents related to transactions available to the state licensing authority for inspection upon request.

NEW SECTION. Section 28. Transfer of ownership -- change of location or manager. (1) A therapeutic marijuana grower license or therapeutic marijuana-infused manufacturer license may be transferred to another organization upon application to the state licensing authority on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the state licensing authority shall consider the requirements of [sections 17 through 40] and rules adopted pursuant to [sections 17 through 40].

- (2) A personal production assistant license is not transferable.
- (3) A licensee shall report a transfer or change of ownership to the state licensing authority 30 days before a transfer or change of ownership occurs.
- (4) A report is required for transfers of capital stock of any corporation.
- (5) Upon approval from the state licensing authority, a licensee may move the licensee's permanent location to any place in the same city, town, or county for which the license was originally granted. Before granting the request, the state licensing authority shall consider whether the proposed change of location would conform with city, town, or county zoning requirements or regulatory decisions made pursuant to [section 8].

(6) A licensee [REDACTED] MAY employ a separate and distinct manager on the premises. The licensee shall report to the state licensing authority:

- (a) the name of the manager; and
- (b) a change in manager 30 days prior to any change.

NEW SECTION. Section [REDACTED] 29. Unlawful financial assistance. (1) The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest in each license issued pursuant to [sections 17 through 40]. The disclosure must include the extent of each person's financial interest.

(2) This section does not apply to:

- (a) a financial institution as defined in 32-6-103;
- (b) federal housing administration-approved mortgages; or
- (c) stockholders, directors, or officers of financial institutions or the federal housing administration.

(3) This section is intended to prohibit and prevent the control of licenses by an individual, organization, or business that is not licensed pursuant to the provisions of [sections 1 through 40].

NEW SECTION. Section [REDACTED] 30. License renewal. (1) For all licenses except personal production assistant licenses, the state licensing authority shall notify the licensee 90 days in advance of the expiration of the license. The notification must be sent by first-class mail to the licensee's address of record with the state licensing authority. Except as provided in subsection (2), a licensee shall apply for the renewal of an existing license at least 30 days before the expiration date of the license.

(2) The state licensing authority, in its discretion and based upon reasonable grounds, may waive the 30-day requirement.

(3) (a) A licensee whose license has been expired for 90 days or less may file a late renewal application upon the payment of a nonrefundable late application fee. A licensee who files a late renewal application and pays the fee may continue to operate until the state licensing authority has taken final action on the application unless the state licensing authority summarily suspends the license as provided in [section 38].

(b) A licensee whose license has been expired for more than 90 days may not cultivate, manufacture, or distribute or otherwise transfer therapeutic marijuana until the person has obtained a new license.

NEW SECTION. Section [REDACTED] 31. **Inactive licenses.** The state licensing authority may revoke or elect not to renew a license if it determines that the licensed premises has been inactive for at least 90 days.

NEW SECTION. Section [REDACTED] 32. **Unlawful acts by licensees.** (1) Except as otherwise provided in [sections 1 through 40], it is unlawful for a licensee to:

(a) possess more plants and usable marijuana than allowed by the terms of the license issued by the state licensing authority or any rules adopted by the state licensing authority pursuant to [sections 17 through 40];

(b) have in possession or upon the licensed premises an amount of therapeutic marijuana in excess of the amount allowed by the license;

(c) allow any use of therapeutic marijuana upon a licensed premises;

(d) have on the licensed premises any therapeutic marijuana or marijuana paraphernalia that shows evidence of the therapeutic marijuana having been consumed or partially consumed;

(e) continue operating for the purpose of cultivation or manufacture of therapeutic marijuana or therapeutic marijuana-infused products without filing the forms and paying the fees required under [sections 17 through 40];

(f) transfer or acquire therapeutic marijuana except as allowed pursuant to [sections 1 through 40];

(g) allow a person to be within a limited access area unless:

(i) the person's license [REDACTED] from the state licensing authority allows access and the person's license [REDACTED] is displayed as required by [sections 1 through 40]; or

(ii) the person is an employee of the state licensing authority conducting an inspection pursuant to [section 37];

(h) fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous locations as required by rules adopted pursuant to [sections 17 through 40];

(i) fail to report a transfer or change of ownership or financial interest as required by [section 32];

(j) fail to report the names of or a change in managers as required by [section 32];

(k) display any signs other than those approved by the state licensing authority;

[REDACTED]

- (m) provide public premises for the purpose of using therapeutic marijuana in any form;
 - (n) provide therapeutic marijuana to a person not licensed pursuant to [sections 17 through 40] or to an individual who is unable to produce a valid registry identification card;
 - (o) offer for sale or solicit an order for therapeutic marijuana;
 - (p) provide therapeutic marijuana anywhere other than the licensed premises specifically designated in the license [REDACTED] or
 - (q) violate the provisions of 30-14-205 and 30-14-209.
- (2) (a) It is unlawful for a therapeutic marijuana grower to possess, transfer, deliver, or cause to be delivered to any person therapeutic marijuana not grown upon its licensed premise unless it is marijuana from an exchange provided for in the Department rules.
- (b) A violation of this subsection (2) is grounds for the immediate revocation of the license granted under [sections 17 through 40].
- (3) (a) It is unlawful for a physician to make patient referrals to a therapeutic marijuana licensee or to receive anything of value from a licensee or its agents, servants, or officers or anyone with a financial interest in the license.
- (b) It is unlawful for a licensee or registrant to offer anything of value to a physician.
- (4) A person who violates a provision of this section commits a misdemeanor that is punishable by a fine not to exceed \$10,000 or by imprisonment in a county jail for a term not to exceed 1 year, or both, unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section [REDACTED] 33. Inspection procedures. (1) The state licensing authority may conduct [REDACTED] regular, unannounced inspections.

- (2) (a) Each licensee shall keep a complete set of records necessary to show all business transactions, INCLUDING TRANSFERS AMONG GROWERS. The records must be open for inspection by the state licensing authority at any time during business hours.
- (b) The state licensing authority may require:
- (i) a licensee to furnish information it considers necessary for the proper administration of [sections 1 through 40]; and

(ii) an audit of the licensee's records and accounts by an auditor selected by the state licensing authority. The auditor may have access to all books and records of the licensee. The licensing authority shall share any financial records requested by the Montanan Department of Revenue.

(3) The licensee shall pay the costs of an audit required under this section.

(4) (a) A licensed premises, including any places of storage, where therapeutic marijuana is cultivated, manufactured, stored, cultivated, or distributed is subject to entry by the state licensing authority for the purpose of inspection or investigation during all business hours and other times of apparent activity.

(b) (i) For examination of inventory or books and records required to be kept by the licensee, the state licensing authority may have access during business hours.

(ii) If any part of the licensed premises consists of a locked area, the licensee shall make the area available for inspection without delay upon request of the state licensing authority.

(5) A licensee shall keep all books and records showing all business transactions of the licensee for the current tax year and up to 7 tax years during the term of their license.

(6) Within 15 days after the end of each quarter and in a manner prescribed by the state licensing authority, a licensee shall file a statement showing for that month:

(a) the total gross income collected through reimbursement of costs;

(b) the amount of usable marijuana produced;

(c) the number of plants grown, seedlings started, and cuttings and clones in inventory;

(D) THE AMOUNT AND FORMS OF THERAPEUTIC MARIJUANA TRANSFERRED BY A THERAPEUTIC MARIJUANA GROWER TO ANOTHER GROWER;

~~(d)~~(E) the registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder; and

~~(e)~~(F) the number of mature plants, seedlings, cuttings, and clones and amount of usable marijuana remaining in inventory.

NEW SECTION. Section 34. Penalties for licensees. (1) The state licensing authority may summarily suspend a license or issue a notice of contemplated action for a violation of any provision of [sections 17 through 40] or rules adopted pursuant to [sections 17 through 40].

(2) A license may be revoked, suspended, or subject to other disciplinary action and a renewal action may be denied for:

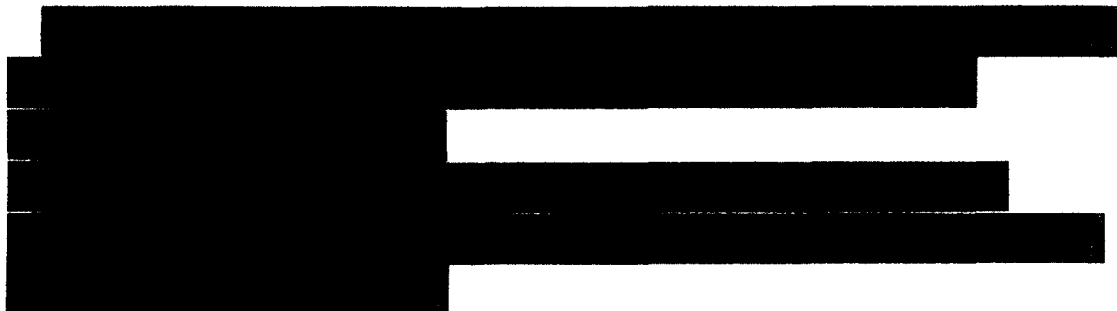
- (a) failure to comply with or satisfy any provisions of [sections 1 through 40] or rules adopted by the state licensing authority;
- (b) failure to allow an inspection by an authorized representative of the state licensing authority;
- (c) falsification of any material or information submitted to the state licensing authority;
- (d) diversion of therapeutic marijuana as determined by the state licensing authority; or
- (e) threatening or harming a registered cardholder, a physician, or an employee of the state licensing department.

(3) (a) A licensee whose license has been summarily suspended or who has received a notice of contemplated action may request a hearing and an administrative review of written materials as applicable. The licensee shall file the request for a hearing within 30 days of the date the action is taken or the notice is received.

(b) The request must be sent to the state licensing authority and include:

- (i) the requester's name, address, and telephone number;
- (ii) a statement of the facts relevant to the review of the action;
- (iii) a statement of the statutes and administrative rules relevant to the review of the action; and
- (iv) any other information or evidence the requester considers relevant to the request.

(4) The state licensing authority shall consider the request as provided in title 2, chapter 4.



NEW SECTION. Section 35. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the state licensing authority for use in administering [sections 17 through 40]. The account consists of money deposited into the account from licensing fees and penalties

assessed by the state licensing authority and any other source of revenue due to the state licensing authority. Interest earned on the account must be deposited into the account and used to sustain the account.

(2) Money from the account must be used to cover the expenses of the state licensing authority.

(3) Beginning July 1, 2015, fifty percent of the mMoney remaining in the account at the end of the fiscal year must be transferred to the general fund.

(4) The state licensing authority shall have appropriation of \$350,000.00 to start the licensing program and hire up to 4 fte.

[REDACTED]

[REDACTED]

Section [REDACTED] 36. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

- (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;
- (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;
- (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;
- (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;
- (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
- (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40]."

Section [REDACTED]. 37. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section [REDACTED]. 38. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means of obtaining the information required for a written certification that is used to apply for a registry identification card pursuant to [sections 1 through 40];

~~(b)~~(c) fails to pay a required fee;

~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section XXXX. 39. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

- (a) those persons and agencies listed in 41-5-215(2); and
 - (b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.
- (6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).
- (b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:
- (i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and
 - (ii) as provided in Title 5, chapter 13.
- (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).
- (b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.
- (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:
- (i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and
 - (ii) as provided in Title 5, chapter 13.
- (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-

215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services or the state licensing authority as defined in [section 2], from confirming whether a youth applying for a registry identification card or a license or registration as provided in [sections 1 through 40] is currently under youth court supervision."

Section XXXX 40. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46 [sections 1 through 40]~~, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not

less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than life or be fined an amount of not more than \$50,000, or both.

(5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 41. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46 [sections 1 through 40]~~, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or by both.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) (a) A person convicted of a second or subsequent offense of criminal possession of methamphetamine shall be punished by:

- (i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or
- (ii) commitment to the department of corrections for placement in an appropriate correctional facility or program for a term of not less than 3 years or more than 5 years. If the person successfully completes a residential methamphetamine treatment program operated or approved by the department of corrections during the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not to exceed \$50,000.

(b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place the person in a residential methamphetamine treatment program operated or approved by the department of corrections or in a correctional facility or program. The residential methamphetamine treatment program must consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based prerelease center.

(c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

- (i) the person to abide by the standard conditions of probation established by the department of corrections;

- (ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person if the person is financially able to pay those costs;

- (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;
 - (iv) that the person may not consume alcoholic beverages;
 - (v) the person to enter and remain in an aftercare program as directed by the person's probation officer; and
 - (vi) the person to submit to random or routine drug and alcohol testing.
- (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.
- (7) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.
- (8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 42. Section 45-9-103, MCA, is amended to read:

"45-9-103. Criminal possession with intent to distribute. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to distribute not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 43. Section 45-9-110, MCA, is amended to read:

"45-9-110. Criminal production or manufacture of dangerous drugs. (1) Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], a person commits the offense of criminal production or

manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. A person convicted under this subsection who has a prior conviction that has become final for criminal production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

(5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

Section 44. Section 45-9-127, MCA, is amended to read:

"45-9-127. Carrying dangerous drugs on train -- penalty. (1) Except as provided in ~~Title 50,~~
~~chapter 46~~ [sections 1 through 40], a person commits the offense of carrying dangerous drugs on a train

in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

SECTION 45. SECTION 45-9-203, MCA, IS AMENDED TO READ:

"45-9-203. Surrender of license or registry identification card. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4] for the therapeutic use of marijuana is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 6]."

Section 46. Section 45-10-103, MCA, is amended to read:

"45-10-103. Criminal possession of drug paraphernalia. Except as provided in ~~Title 50, chapter 46~~ [sections 1 through 40], it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment."

Section 47. Section 45-10-107, MCA, is amended to read:

"45-10-107. Exemptions. Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice and persons in compliance with ~~Title 50, chapter 46~~ [sections 1 through 40], are exempt from this part."

SECTION 48. SECTION 50-46-201, MCA, IS AMENDED TO READ:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before the effective date of [section 61(4) 65(4)] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

SECTION 56-202. SECTION 50-46-202, MCA, IS AMENDED TO READ:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department;

or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

(1)(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of 50-46-103 this section.

(2)(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 61-11-101. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses --

surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

- (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;
- (b) forfeiture of bail that is not vacated; or
- (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid therapeutic marijuana registry identification card or a therapeutic marijuana license [REDACTED] issued pursuant to [sections 1 through 40] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card, license, or registration.

(b) Within 5 days after the conviction becomes final, the court shall forward:

(i) the registry identification card and a copy of the conviction to the department of public health and human services; or

(ii) the license or registration and a copy of the conviction to the department of revenue STATE LICENSING AUTHORITY AS DEFINED IN [SECTION 2]."

~~Section 57. Section 69-1-114, MCA, is amended to read:~~

~~"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.~~

~~(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), or 69-12-423(2), or [sections 17 through 40], a fee set by the commission may not exceed \$500.~~

~~(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."~~

~~Section 58. Section 69-1-401, MCA, is amended to read:~~

~~"69-1-401. Definitions. As used in this part, the following definitions apply:~~

~~(1) "Department" means the department of public service regulation provided for in Title 2, chapter 15, part 26.~~

~~(2) (a) "Regulated companies" means all organizations, corporations, associations, or other public or private entities which now are or may hereafter become subject to regulation in any manner by the~~

~~department of public service regulation, the public service commission, or any successor agency. The term does not include motor carriers regulated pursuant to Title 69, chapter 12.~~

~~"(b) The term does not include individuals, businesses, or organizations licensed by the department pursuant to [sections 17 through 40]."~~

NEW SECTION. Section [REDACTED] 51. Emergency rulemaking. The department of public health and human services and the public service commission **DEPARTMENT [REDACTED]** AGRICULTURE shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards and processing of license applications pursuant to [sections 1 through 40] by [REDACTED] [REDACTED] December 30, 2011..

NEW SECTION. SECTION [REDACTED] 52. REPEALER. THE FOLLOWING SECTIONS OF THE MONTANA CODE ANNOTATED ARE REPEALED EFFECTIVE JANUARY 1, 2012:

50-46-101. SHORT TITLE.

50-46-102. DEFINITIONS.

50-46-103. PROCEDURES -- MINORS -- CONFIDENTIALITY -- REPORT TO LEGISLATURE.

50-46-201. MEDICAL USE OF MARIJUANA -- LEGAL PROTECTIONS -- LIMITS ON AMOUNT -- PRESUMPTION OF MEDICAL USE.

50-46-202. DISCLOSURE OF CONFIDENTIAL INFORMATION RELATING TO MEDICAL USE OF MARIJUANA -- PENALTY.

50-46-205. LIMITATIONS OF MEDICAL MARIJUANA ACT.

50-46-206. AFFIRMATIVE DEFENSE.

50-46-207. FRAUDULENT REPRESENTATION OF MEDICAL USE OF MARIJUANA -- PENALTY.

50-46-210. RULEMAKING -- FEES.

NEW SECTION. Section [REDACTED] 54. Codification instruction. [Sections 1 through 40] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 40].

~~COORDINATION SECTION. Section 59. Coordination instruction. (1) If House Bill No. 161 is not passed and approved, then [this act] is void.~~

COORDINATION SECTION. SECTION 62. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 82 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN [SECTIONS 4 AND 11 OF THIS ACT] IS VOID.

NEW SECTION. SECTION [REDACTED]. 55. INSTRUCTIONS TO CODE COMMISSIONER. (1) WHEREVER A REFERENCE TO "MEDICAL USE OF MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC USE OF MARIJUANA".

(2) WHEREVER A REFERENCE TO "MEDICAL MARIJUANA" APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE THE REFERENCE TO "THERAPEUTIC MARIJUANA".

(3) WHEREVER A REFERENCE TO 50-46-102 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 2] OF SENATE BILL NO. 423.

(4) WHEREVER A REFERENCE TO 50-46-205 APPEARS IN LEGISLATION ENACTED BY THE 2011 LEGISLATURE, THE REFERENCE MUST BE REPLACED WITH A REFERENCE TO [SECTION 14] OF SENATE BILL NO. 423.

NEW SECTION. Section [REDACTED]. 56. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section [REDACTED]. 57. Effective dates. (1) New Section 2 (1) debilitating medical condition (10)primary physician (17) Standard of care; New Section 3, 4, 8, 9, 10, 11, 12, 13 14, 15, 16,17, 18, 19, 20, 21, 22, 23, 24, 25. 35, are effective July 1, 2011; the repealer is effective December 31, 2011 at 12 midnight, all other sections are effective January 1, 2012 [REDACTED]

[REDACTED]

[REDACTED]

- Add to Section 14 on page 17, line 3, "...including all facilities and programs described in Section 53-1-203;"

- Add to Section 14 on page 17, following line 7, "(e) the use of marijuana by an individual under the supervision of the department of corrections or youth court or ordered by a court to participate in any state, county or local government criminal supervision or enforcement program."

The proposed language will prohibit prerelease participants from obtaining cards or use by them while in prerelease facilities or participating in the programs. Obtaining cards and use while on the property or participating in the programs is inconsistent with prerelease goals and inhibits rehabilitation.

EXHIBIT 6
DATE 4/6/2011
SB 423

ATTORNEY GENERAL
STATE OF MONTANA

Steve Bullock
Attorney General



Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

June 28, 2010

Representative Diane Sands
Children, Families, Health, and Human Services Interim Committee
Montana State Capitol
Helena, MT 59620-1706

Dear Representative Sands:

There is widespread agreement in Montana that the voter-initiative passed in 2000, which permitted the use of marijuana for certain medicinal purposes, failed to establish a clear and effective mechanism for enforcement and regulation of the drug's use.

Many issues have been raised all across the state, in big towns and small communities and the existing law has created confusion for almost everyone involved – from law enforcement officers and landlords, to city council members and doctors.

In the past eight months, the Division of Criminal Investigation in my Department has given 86 presentations on medical marijuana to communities and law enforcement agencies throughout the state.

The enclosed document represents the most significant challenges the law enforcement community has identified in regards to the regulation of medicinal marijuana and enforcement of our law. That document also outlines possible solutions to these challenges. I hope they are of assistance to your committee as you tackle this difficult issue.

Like you, I am hopeful that the next legislature will look at the issues the state is facing and implement some commonsense regulations that ensure our communities stay safe and patients in legitimate need can access medication.

I know that many good ideas will surface in the legislative process – including a more comprehensive regulatory framework, such as the proposal from Powell County Attorney Lewis Smith to regulate caregivers. I hope that your committee feels free to rely on the continued assistance and expertise of my staff in your work.

I thank you for your dedicated work on this issue. If you should have any questions, please don't hesitate to contact either Deputy Attorney General Ali Bovingdon or Division of Criminal Investigation Administrator Mike Batista.

Sincerely,

A handwritten signature of Steve Bullock in black ink.
STEVE BULLOCK
Attorney General

SB:sj

Montana Medical Marijuana Act: Law Enforcement Concerns
Prepared by
Mike Batista, Administrator, Division of Criminal Investigation,
Montana Department of Justice
for
Children, Families, Health, and Human Services Interim Committee
June 28, 2010

Since the passage of the Medical Marijuana Act (hereinafter “MMA”) by the voters in 2004, Montana’s law enforcement community has struggled with enforcement of the law against individuals violating the law or stretching the limits of what it allows. In order to assist the Committee in defining the regulatory structure and addressing concerns raised in communities across Montana, the Department of Justice has synthesized the major challenges or issues identified by the law enforcement community.

I. Enforcement Challenges

- **Location of Grow Operations**

The MMA does not specify where marijuana for medical use, as defined by Mont. Code Ann. § 50-46-102, may be grown. LE has observed that marijuana is being grown out of state and brought into Montana for sale and consumption.

***Possible Solution:** Amend the MMA to clarify that marijuana for medical use as allowed by the MMA is restricted to marijuana actually grown in the state.*

- **Caregiver-to-Caregiver Sales**

Current law limits the right of a caregiver to distribute medical marijuana (hereinafter “MM”) only to specified card-carrying patients. Caregivers have advocated for allowing a caregiver to buy marijuana plants from other caregivers in order to maintain a sufficient supply of marijuana. Law enforcement (hereinafter “LE”) is concerned that this contributes to the risk of diversion of MM for illegal purposes. Such an expansion would also make it difficult for a regulatory entity or LE to track MM sales.

***Possible Solution:** Do not expand law to allow caregiver-to-caregiver sales.*

- **Transportation of Medical Marijuana**

Caregivers use employees to transport MM to patients or from grow locations to a caregiver’s place of business. Allowing employees to transport MM creates a category of individuals that may possess MM, outside of the caregiver or patient status defined in the MMA.

***Possible Solution:** Amend the MMA to clarify that only a caregiver or patient may transport MM.*

- **Background Checks for Caregivers and Employees**

The MMA provides that in order to act as a caregiver, an individual may not have a felony drug conviction. LE believes the law should be amended to exclude a person with any felony conviction from acting as a caregiver and that employees of caregivers should also be subject to the same criteria.

***Possible Solution:** Require fingerprint based background checks for caregivers and employees, and prohibit individuals with any felony conviction from acting as a caregiver or being employed by a caregiver.*

- **Affirmative Defenses,**

The affirmative defenses provided by 50-46-206, MCA undermine the limited regulatory structure provided by the law and make it more difficult to arrest and prosecute individuals who are using the MMA as a shield for illegal use.

***Possible Solution:** Amend the affirmative defense section to clarify that individuals are not immune from prosecution if they have not received a registry identification card, or in the case of a caregiver, complied with the provisions of Mont. Code Ann. 50-46-103; strike 50-46-206(3), as it allows possession beyond that which the MMA allows.*

II. Regulatory Structure

- **Caregiver License**

Current law requires DPHHS to issue a registry identification card to a caregiver designated in a patient's application. The law does not provide for independent identification or licensure of the caregiver. Without appropriate identification or licensure, and if the caregiver can not present the registry identification cards, it is impossible for LE to confirm that their possession of marijuana is legal.

***Possible Solution:** Amend the MMA to require licensure for caregivers and to require that a caregiver possess both their license and registry identification cards or be subject to a civil or criminal penalty.*

- **Access to Caregiver Grow Operations**

Caregivers are not required to disclose the location of grow operations to any regulatory entity. As a result, LE, city councils, health departments, building code inspectors, and many other regulatory agencies are unable to regulate these sites. LE devotes considerable resources (surveillance, investigation, interviews, search warrants, etc.) to investigate reports of illegal marijuana grow operations. Knowing the location of the grow sites and licensed caregivers and allowing for compliance checks by a regulatory entity would allow LE and other agencies to save resources and ensure that caregivers are operating within the boundaries of the MMA.

***Possible Solution:** Amend the MMA to require a caregiver to register the location of a business and any grow operations with DPHHS and make that list available to LE and other appropriate regulatory entities and provide for compliance checks by a regulatory body. Include an affirmative duty for a caregiver to update the list if additional operations are started or if locations change.*

- **Record Keeping**

Caregivers are not required to maintain transaction records. Some caregivers voluntarily track their product purchases; however the majority of caregivers do not maintain adequate records. Without complete records, there is no way for LE to confirm that the transactions were authorized by the MMA and there is an increased opportunity for MM to be diverted for illegal purposes.

Possible Solution: Amend the MMA to require caregivers to maintain records of transactions and other records as determined by the Legislature.

- **Registry Identification Cards**

A patient is not required to have the registry identification card in his or her possession. In the event that an individual is contacted by LE, it is extremely difficult to know if the person is an actual card holder. Nor is there 24-hour access to the database to verify an individual's status. LE is required to arrest the person, seize the marijuana, and expend time and resources dealing with the individual.

Possible Solution: Require patients to possess and present their registry identification card upon request of LE or be subject to criminal penalty.

- **License Revocation**

The MMA provides no consequence for a patient or caregiver violating the provisions of the law.

Possible Solution: Amend the MMA to allow for permanent revocation of a caregiver license or registry identification card if a caregiver or patient is convicted of a drug offense or violating the provisions of the MMA.

III. Clarification Needed

- **Allowable Number of Plants**

Montana Code Ann. § 50-46-201(2) provides that a qualifying patient and the patient's caregiver "may not possess more than six marijuana plants and 1 ounce of usable marijuana each." There has been confusion whether this section allows both the patient and a designated caregiver to possess the six plants and 1 ounce. For example, a husband and wife may each name themselves the caregiver for the other, and then argue they are each entitled to grow six plants as a patient and are also entitled to grow six plants as the caregiver, resulting in the possession of 24 plants as well as the additional ¼ pound of usable MM. It is unclear whether this arrangement violates the MMA.

Possible Solution: Amend the MMA to clarify the allowable possession amounts for a patient and caregiver in the situation where a patient has a designated caregiver.

- **Definitions**

The statute fails to provide a definition of a plant. Marijuana plants can vary in size and quantity of potential product. Additionally the definition of usable marijuana is very broad and difficult to enforce when the form of ingestion is something other than plant material, i.e.) brownies, cookies, butter, tinctures, teas.

Possible Solution: Amend the MMA to provide clearer definition of these terms, looking to other states with MM laws for guidance.

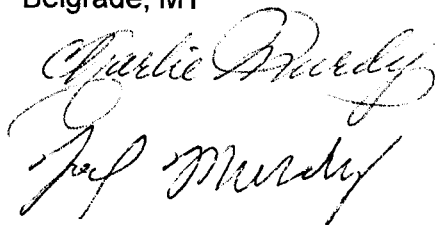
Montana State Legislature
House Human Services Committee
Hearing on SB 423
4/6/2011

If HB 161 is not passed, we Support SB 423. For regulating marijuana, this bill has been the best. It addresses many issues. It still makes therapeutic marijuana available for those who truly need it. It greatly reduces the rampant abuse we have seen the last few years in our communities and schools. However, the following areas still need to be addressed:

1. Establish protocol for the destroying and disposal of sub-standard, over produced, or out dated product, and subsequent reporting of these actions.
2. We cannot stress enough that the required age of a personal production associate and courier should be raised to 21. We have an established drinking age of 21, the same protocol should apply here.
3. Fines for persons mis-representing themselves should be higher, \$1000 minimum, not \$500.
4. Section 44 on telemedicine. There should be no telemedicine. We have already seen a lot of problems with this. Patients need to be seen physically by a Physician.
5. There should be no out of state Physicians involved.
6. Section 46, sealing of youth court records. I understand the intent of sealing the youth court records to give the individual a new start, so to speak. However, a history of drug abuse and crime is very relevant information to the body issuing the therapeutic marijuana card.

Respectfully,

Joel & Charlie Murdy
Belgrade, MT

The block contains two handwritten signatures in cursive. The top signature is 'Charlie Murdy' and the bottom signature is 'Joel Murdy'.

7

David Howard,
Chairman House Human Services committee
Montana House of Representatives
P.O. Box 200400
Helena, MT 59620-0400
3/19/2011

Dear Mr. Howard

With the recent deadlock on HB161 it is apparent to all that bills that will regulate and control the medical marijuana industry must be acted on. To let the statusquo continue is simply unacceptable. The recent federal search and seizures are evidence of this. HB68 may have the best chance of regulating this industry. The following is a list of of additons and changes to HB68 for your consideration.

1. Raise the required age of a caregiver to 21.
2. Establilsh a training program for caregivers and physicians, that trains on proper dispensing and recommending of medical marijuana. Current science should be used in constructing this program. It should have a section on recognizing signs of addiction.
3. Require all caregivers to acceptably complete formal training for dispensing marijuana. And take annual refreshers courses to keep up with the latest science.
4. Require Physicians to complete formal training on recommending medical marijuana. And take annual refresher courses to keep up with the latest science.
5. Establish standards of production for marijuana to be tested to. And require growers to test to those standards at set intervals using an independent acredited testing facility.
6. Require any edible or applied products to be made only with marijuana from a licensed Montana grower. And produce these products to the same statutes and standard as any other edible or applied product, ie. Cookies, lotions etc.
7. Restrict and control the transfer of product.
8. Freeze the issuing of medical marijuana cards, caregiver licenses, grower licenses, etc. until the new law is in place with all of the associated protocol and infrastructure.
9. Once the protocol and infrastructure are in place. Caregivers, growers, and patients would be required to meet all the requirements of the new law when renewing expired licenses and cards. There should be **NO** grandfathering in of exisiting businesses.
10. Limit the number of growers that can operate in the state and license them to grow **ONLY** what's needed to meet demand.
11. Prohibit any transfer of medical marijuana or marijuana infused products in or out of state.
12. Establish protocol for the destroying and disposal of sub-standard, over produced, or out dated product.
13. Establish transparent comprehensive record keeping for all aspects of the industry to include: production, sales, transfers, disposal, patients, and dollars. All financial records should be kept according to accepted accounting principles. There should audits and penalties for non-compliance.
14. Require the industry to bare all the cost of regulating, controlling, and monitoring the industry through license and card fees. There should be no additional costs to the taxpayers.
15. There should be **NO** additional taxes on the industry other than regular business taxes.

Thank you for considering these ideas. Thank you for all your hard work.

Sincerely,

Joel & Charlie Murdy
1003 E. Silverbow Ave.
Belgrade, MT 59714

EXHIBIT 8
DATE 4/6/2011
SB 423

April 6, 2011

Chairman of the Board and Members of the Committee,

My name is Sarah Baugh and I now live in Helena, Montana.

I would like to thank all of you for the attention that you continue to give this critical law.

I personally appreciate that you are still trying to find workable solutions so that all patients in genuine and critical need may have safe access.

As many of you know already from past testimony I have given this session, I use cannabis daily very successfully to treat my epilepsy. Because I don't respond to modern treatments, cannabis has become critical to my well-being.

You should all know that many seizure disorders do not respond to modern treatments....many do, but many do not. An estimated 42,000 people die every single year from seizures, and thousands more suffer brain damage as a result of their seizures or accidents that occur while seizing. The success that I and other seizure-prone persons have found with cannabis treatment has been ground-breaking and has made the difference between a bed-ridden life and a productive, active one. The success we have found means that we and our loved ones no longer live in daily fear of death and brain damage because we are successfully treating our condition.

I am here to ask you to please amend SB423 to allow probationers and parolees with life-threatening conditions to have safe access to medical cannabis. I know personally of a young man who is on probation actively paying back society for an error in judgment who has a severe seizure disorder and diabetic neuropathy. He remains compliant with the DOC and is complying with all conditions of his probation. This young man's health depends on medical cannabis as he is one of the many persons suffering from seizures, like me, who do not respond well to conventional treatment.

Ladies and gentlemen, this young man has life-threatening seizures just like I do. He has already been punished by the state for his crime. Why are we even considering denying safe access to health care to one of our citizens because of a past mistake?? This seems to me to be cruel and unusual punishment. He has already been punished for his error, and if he is compliant with the state's conditions of his probation, why should he also be required to risk his life simply because the state will not see the difference between his medication and a street drug?? Why should his mother live in fear every day of losing her son?? What makes his life worth less than mine, simply because he is on probation? His judge sentenced him to probation only. What gives the state the right to sentence him to possible death or brain damage? Probation does not make him less ill, ladies and gentlemen.

We all deserve equal access to safe health care. Amending SB423 to include probationers and parolees-at least those with life threatening conditions-is one way in which each of you can help to make that possible for your constituents.

Thank you very much for your time on this issue,
Sarah Baugh

To: Senators and Representatives of the 2011 Legislature

I am greatly saddened by your actions regarding the Medical Marijuana Act. The people of the great state of Montana voted to allow the usage of medical marijuana. Instead of contacting the folks that had written the original legislation, someone in their infinite wisdom just opened the gates and let the cows out so to speak!

Now, instead of calling in the medical marijuana growers and caregivers and asking them to help set up guidelines, you are choosing to repeal the entire law. You have heard hundreds of people testify before you about the good that medical marijuana has done in treatment of their illnesses. I have heard some of this testimony on T.V. and I am moved by their testimony. I grew up in the 1960's and attended college when drugs were rampant. Due to my choice of profession, I did not experiment with drugs.

I currently find myself in a medical situation that I have compressed discs in my back, circulation problems, and 24 years of Rheumatoid Arthritis. I have tried the medical avenue in dealing with doctors, insurances, and hospitals. I ended up in intensive care when a doctor prescribed too much morphine. I have taken their prescribed pain pills only to awake with a medical hangover from the pain pills. Gee, that's doing things the legal way! I currently use medical marijuana to allow my muscles to relax. This finally allows me to be able to get some sleep without adding another pill. Thank God!

The folks involved in the Medical Marijuana Growing and Care-giving Business have invested a lot of time and money in starting what they thought was a business encouraged by the state and people of Montana. Now, our Senators and Representatives are playing God! The medical marijuana caregivers are asking for guidelines to follow. Bring in committees of those caregivers and

have them help to set up the guidelines and regulations for their profession. Every other profession in Montana has had the opportunity to "police" their own group. Give the Medical Marijuana Caregivers and Growers the same consideration. They will write the guidelines that you are not qualified to write.

The people of Montana felt that Medical Marijuana was worth voting into law. Hopefully you will consider their thoughts and actions before you repeal the Medical Marijuana Act. If not, the folks that voted for Medical Marijuana may be the same people who are voting you out of office during the next election.

I am writing this letter and submitting it via my caregiver. I am unable to travel due to my health issues. I would hope that you would use good sense and the caregivers to set up regulations for the use of medical marijuana.

Sincerely,

Nancy S.

Anaconda, MT



EXHIBIT 10
DATE 4/6/2011
SB 473

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Medical Marijuana: Therapeutic Uses and Legal Status



Release Date: October 1, 2010 Expiration Date: October 31, 2012

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GOAL:
To provide an understanding of the pharmacology, effects, side effects, and potential clinical uses of marijuana and to provide a basis for appreciation of the controversy and legal issues surrounding state and federal programs that attempt to regulate the availability of marijuana for medical use.

- OBJECTIVES:**
After completing this activity, participants should be able to:
1. List the potential therapeutic applications of marijuana.
 2. Describe the effects of marijuana on the central nervous system and other organ systems.
 3. Recognize the advantages and disadvantages of synthetic cannabinoids and smoked marijuana.
 4. Describe the different approaches states have taken to permit marijuana to be used for medical purposes.
 5. Analyze the controversy between state and federal law as it applies to marijuana and the historical context of regulation.

Few drugs elicit as divergent an emotional reaction as marijuana. In the classic 1936 film *Reefer Madness*, marijuana is described as "The Real Public Enemy Number One," causing "the loss of all power to resist physical emotions leading finally to acts of shocking violence...ending often in incurable insanity."¹ The U.S. Drug Enforcement Administration (DEA) considers marijuana "an addictive drug with significant health consequences to its users and others," concluding that "many harmful short-term and long-term problems have been documented with its use."² On the other hand, the National

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DATE 4/6/2011
SB 423



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Study unravels new mechanism by which cannabinoids suppress immune function; labels them 'double-edged sword'

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ProHealth.com
April 2, 2011

Compounds found in the cannabis plant can trigger a suppression of the body's immune functions, creating greater susceptibility to certain types of cancers and infections, according to research led by the eminent immunologist Dr. Prakash Nagarkatti at the University of South Carolina School of Medicine.

The findings also point to the possibility of using such compounds, currently used legally in some places for medical purposes such as pain relief - as a treatment for a large number of additional clinical disorders that benefit from a suppressed immune response, including rheumatoid arthritis and multiple sclerosis.

The research, published in the *European Journal of Immunology*, focuses on a group of cannabinoid compounds, including THC (delta-9 tetrahydrocannabinol).

"Cannabis is one of the most widely used drugs of abuse worldwide, and it is already believed to suppress immune functions making the user more susceptible to infections and some types of cancer," Dr. Nagarkatti said.

"We believe the key to this suppression is a unique type of immune cell, which has only recently been identified by immunologists - called myeloid-derived suppressor cells, MDSCs."

"While most immune cells fight against infections and cancers to protect the host, MDSCs actively suppress the immune system."

"The presence of these cells is known to increase in cancer patients,

"And it is believed that MDSCs may suppress the immune system against cancer therapy, actually promoting cancer growth."

Dr. Nagarkatti's team demonstrated that cannabinoids can trigger a massive number of MDSCs through activation of cannabinoid receptors.

"Our research for the first time demonstrates that marijuana cannabinoids can activate a unique type of immune cell, and the job of these cells is to suppress the immune response," he says.

Suppressing the immune response is important for treating a large number of ailments, including arthritis, multiple sclerosis, lupus and allergies.

"In these, your immune system gets activated and starts destroying your own cells and tissues. You have to try to suppress your immune response," Dr. Nagarkatti explains. "In such instances, there is a need to develop drugs that can suppress the immune response."

"Marijuana cannabinoids present us with a double-edged sword," he adds. "On one hand, due to their immunosuppressive nature, they can cause increased susceptibility to cancer and infections. However, further research of these compounds could provide opportunities to treat a large number of clinical disorders where suppressing the immune response is actually beneficial."

The research was funded by the National Institutes of Health's National Institute on Drug Abuse. Co-authors were Dr. Venkatesh Hegde and Dr. Mitzi Nagarkatti.

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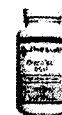
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American Society of Addiction Medicine Rejects Use of 'Medical Marijuana,' Citing Dangers and Failure To Meet Standards of Patient Care

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Cannabis Should Be Subjected to the Standards of Federal Regulators Rather than to Voters' Whims at the Ballot Box

CHEVY CHASE, Md., March 23, 2011 /PRNewswire-USNewswire/ -- Citing the dangers of marijuana, the lack of clinical research on a controlled substance with a high potential for abuse, and the physician's oath to "first, do no harm," the American Society of Addiction Medicine (ASAM) today issued a white paper recommending a halt to using the weed as a medicine in states where it has been declared legal.

The organization—considered the nation's leading professional society of physicians involved in addiction prevention, treatment, research, education, and public policy—supports the need for federal regulatory standards for drug approval and distribution, and discourages state interference in the federal medication-approval process.

"Our policy statement is a careful attempt to put marijuana into proper perspective," said Louis E. Baxter, Sr., MD, FASAM, President and Board Chair, American Society of Addiction Medicine. "We do not recognize this as a 'medication,' having not gone through an official FDA-approval process. As experts in addiction medicine, we reject having its use as such foisted upon us to effectively regulate a non-FDA-approved substance to administer as medicine. We also advise physicians against recommending it, as it is, and possibly forsaking the Hippocratic Oath of 'first do no harm.'"

Currently, laws in 15 states and the District of Columbia allow the use of so-called "medical marijuana." This has resulted in a patchwork system that lacks the patient safeguards normally associated with the appropriate clinical use of psychoactive substances, ASAM policy asserts.

"The informal network puts physicians in an untenable position as gatekeepers to a controlled substance still deemed illicit by the federal government," said Dr. Andrea G. Barthwell, former President of ASAM and a principal advisor to President George W. Bush on policies aimed at reducing the demand for illicit drugs. "We urge physicians to reject this role, and remind those who recommend cannabis that they could fail to meet their professional obligations to patients and possibly have their license revoked."

She added: "The safety and advisability of any prescriptive medicine should depend on years of careful scientific scrutiny, not whims at the ballot box by individuals who lack the qualifications to make such decisions. Allowing cannabis to circumvent FDA approval sets a dangerous precedent and puts us on a slippery slope."

According to her ASAM colleague, Robert L. DuPont, MD, who helped develop the society's public policy: "Marijuana is not the harmless herb many believe it is, but a powerful drug with a variety of effects. It can produce adverse mental, emotional, behavioral and physical changes, and contrary to popular notions, it is addictive. Of the 7.1 million Americans age 12 and older with a substance use disorder related to an illicit drug in 2009, 4.3 million or 60.5 percent were dependent on or abused marijuana. Marijuana was by far the most commonly reported drug of abuse among this population, and nearly equal to all other illegal drugs combined." Dr. DuPont was the first Director of the National Institute on Drug Abuse and the second White House Drug Chief, in the Nixon and Ford Administrations.

Marijuana is generally smoked, and that is dangerous, Dr. DuPont said. Its smoke contains many of components of tobacco smoke, and smoking marijuana can deposit up to four times the amount of tar in the lungs as cigarettes, in part because marijuana smokers inhale deeply and hold their breath.

"We are accumulating knowledge about the body's cannabinoid receptor system. ASAM recommends developing ways to manipulate the system with standardized preparations or single molecules to usher in a new era of medical treatments," he said. As yet, however, "medical marijuana" lacks quality control and standardization, can be contaminated with pesticides and microbes, and does not assure patients a reliable and reproducible dose.

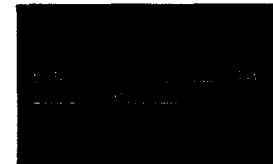
Despite this, cannabis dispensaries are proliferating in many states without regulation, distributing products about which little is known. "If physicians were treating patients with other untested substances, there would be a public outcry," Dr. Barthwell said.

"Without a foundation of rigorous data developed in proper clinical trials and published in peer reviewed journals, no cannabis product can gain entrance into the physician's armamentarium and thereby become available to patients as a legitimate option among various treatment choices. And ironically, continued legalized usage undermines any reason to put cannabis-based products through the FDA approval process."

Marijuana made headlines when Californians voted to legalize its use for medical treatment in 1996. Fourteen more states and the District of Columbia have followed suit. As a result, thousands of people, including youths, have unfettered access to the drug.

Marijuana is the nation's most commonly used illicit drug. More than 94 million Americans (40% of the U.S. population) have tried it at least once, according to the 2003 National Survey on Drug Use and Health.

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Herald Sun

Bongs linked to tuberculosis by researchers

- From: AAP
- April 01, 2011 12:52PM

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PEOPLE who share bongs to smoke marijuana may be at risk of contracting pulmonary tuberculosis, Australian medical researchers say.

Research to be presented at the Thoracic Society of Australia and New Zealand conference in Perth on Monday suggests a link between active TB cases and shared bongs - water pipes commonly used in marijuana smoking.

Dr Michael Hayes and Dr Susan Miles from the Department of General Medicine at Calvary Mater Hospital in Newcastle conducted the research, centred on three recent TB cases in the Hunter-New England area of NSW.

Dr Hayes said the three young patients were regular or heavy cannabis users and more recently a fourth person in the region with similar characteristics had been diagnosed with TB.

TB is caused by the bacteria *Mycobacterium tuberculosis*, which can be contracted by breathing in air droplets coughed from an infected person.

In Australia, about 1000 people are infected with TB each year, while globally an estimated 1.7 million people die from the disease annually.

Dr Hayes, who is also a specialist in the respiratory and sleep unit at the John Hunter Hospital in NSW, said the incidence of TB in the non-indigenous Australian-born population was historically low.

He said although the three initial cases were not related, there was concern about the high rate of positive contacts among people who had shared bongs with the active cases.

Close contacts of the three patients were tested for latent TB and more than 30 showed positive results, Dr Hayes said.

If the contact had shared a bong with the active case, there was a six-fold increased risk of being positive, he said.

"Smoking marijuana is a cough-provoking activity and it is usually conducted in a confined environment that is conducive to the spread of the organism.

"While there is no conclusive proof that TB has been spread by bong smoking, there is sufficient reason to suggest an association between this activity and the spread and severity of the disease."

He said greater awareness of the issue was needed among health professionals and the general public, particularly those who may be at risk through bong smoking.

But Dr Hayes said the risk of TB was just one of the minor risks associated with marijuana use.

"The other health problems associated with long term marijuana use are quite clear and well laid out.

"It does cause lung disease and heavy use does cause psychiatric problems."

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Marijuana And MS Treatment, Not So Smart?

29 Mar 2011

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Medical marijuana has long been a controversial subject to the using and non-using communities and a new study has presented information that those with Multiple Sclerosis that use the sometimes legalized drug, may trade some level of pain relief for diminished thinking skills and other cognitive side effects.

Proponents of medical marijuana argue that it can be a safe and effective treatment for the symptoms of cancer, AIDS, multiple sclerosis, pain, glaucoma, epilepsy, and other conditions. They cite dozens of peer-reviewed studies, prominent medical organizations, major government reports, and the use of marijuana as medicine throughout world history.

Opponents of medical marijuana argue that it is too dangerous to use, lacks FDA-approval, and that various legal drugs make marijuana use unnecessary. They say marijuana is addictive, leads to harder drug use, interferes with fertility, impairs driving ability, and injures the lungs, immune system, and brain.

Some clinical trials have reported a mild benefit of marijuana on pain, bladder dysfunction and spasticity in MS, an auto-immune disease that affects the brain and spinal cord.

In the study, cannabis users performed significantly more poorly than nonusers on measures of information processing speed, working memory, executive functions, and visuospatial perception. They were also twice as likely as nonusers to be classified as globally cognitively impaired.

In 1972, the US Congress placed marijuana in Schedule I of the Controlled Substances Act because they considered it to have "no accepted medical use." Since then, 15 of 50 US states and DC have legalized the medical use of marijuana.

On average, the duration of marijuana use was 26 years in the research. A total of 72% of users reported smoking marijuana on a daily basis while 24% reported weekly use and one person reported bi-weekly use.

The research found that people who used marijuana performed significantly worse with respect to attention, speed of thinking, executive function and visual perception of spatial relationships between objects. For example, on a sensitive test of information processing speed, those using marijuana scored approximately one third lower than non-users. Those who used marijuana were also twice as likely as non-users to be classified as globally cognitively impaired, defined as impairment on two or more aspects of intellectual functioning.

Anthony Feinstein, MPhil, MD, PhD, with Sunnybrook Health Services Center and the University of Toronto in Ontario, Canada stated:



SB 423

Board of Medical Examiners

Testimony

House Human Services Committee

By Pat Bollinger, RD, MS

Chairman Howard and members of the committee, my name is Pat Bollinger. I am a member of the Montana Board of Medical Examiners and am here today on the Board's behalf to provide information as needed.

The Board of Medical Examiners is a licensing board whose primary mission is to protect health care consumers through proper licensing and regulation. Along with physicians, the board licenses EMTs, residents, physician assistants, telemedicine physicians, podiatrists, nutritionists and acupuncturists.

The Board appreciates the effort and significant time that has been devoted to this issue during this legislative session.

SB 423 puts in place a more tightly regulated medical marijuana program. It continues to stress the importance of physician involvement and adds provisions to ensure appropriate safety measures are in place to prevent abuse and protect patients. The Board stands firm on our position that the process of a physician certifying for medical marijuana is the same process that the physician uses in prescribing medicine for other problems, and physicians should not stray from medical standards of practice. The Board provided such guidance to physicians through a position paper we adopted in May of 2010. I have provided a copy of the position paper with my written testimony.

The Board is already well positioned to identify clinical standards to protect the general public's safety as well as the safety of patients. We believe an ongoing relationship with a physician is needed to ensure this drug is actually being effective in easing pain or discomfort. The board is prepared to discipline physicians who do not follow the expected standard of care and has in place a well established complaint process.

As you deliberate the merits of this bill we wanted to provide information in a couple of areas that we believe warrant further consideration.

Section 2. Definition of "debilitating medical condition"

The definition of "debilitating medical condition" includes a specific list in this bill. This listing of medical conditions is problematic for a couple of reasons. One, it appears to guarantee a medical marijuana card for any person with a specific diagnosis. This simply does not follow the medical practice of care. A treatment recommendation should be tailored for each patient and the diagnosis. Two, there may be other rare conditions not listed where medical marijuana may be a useful treatment. A patient having a condition listed should not, per se, qualify unless that condition is active and causing serious impairment of function/quality of life at the time *(continued on page 4)*

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Certifications by Teleconference

The Board of Medical Examiners ruled that the use of teleconference technology for initial medical marijuana certifications does not meet standard of care, amending the position paper in November 2010.

The public expects, and deserves, a certain level of quality to be delivered. The board has noted those who are seeking certifications have debilitating conditions that demand physician attentiveness and ongoing monitoring. Physicians should complete a "hands on" physical examination. Further, the physician should complete the full assessment themselves and not delegate a part of the certification process to other medical staff.

Complaints

The Board of Medical Examiners has had six complaints filed against physicians that relate to medical marijuana. Disciplinary action was taken against one physician, one physician has been noticed, two complaints were dismissed, and two are under review.

Medical Marijuana Certifications

As of December 10, 2010 there are 359 physicians in Montana who have certified one or more patients for medical marijuana. This is 9% of physicians who hold an active license.

Approximately 32 physicians have certified over 100 patients. Current law discourages the Board to look more closely at physicians who are certifying high numbers of individuals. (50-46-103 and 40-46-201, MCA)

Current law also does not give the BOME authority to look at physicians practicing in a work environment that advertises certifications will be done quickly, with or without medical records.

The law is clear that BOME can create a board generated complaint if it knows the licensee by name and cannot discipline a physician for providing written certifications to qualifying patients.

Physicians should not pass their medical education and training on the use of marijuana to inexperienced physicians for medical marijuana.

Standard of Care: Board Position Paper Clarifies and Protects

In May 2010, the Board of Medical Examiners adopted a position paper to provide needed guidance to physicians engaged in medical marijuana certifications. The position paper has served as a guiding post on physician care for the BOME, physicians, patients, and other state agencies.

Physician's Written Certification for Medical Marijuana and the Bona Fide Physician-Patient Relationship

In 2004 Montana voters approved the use of medical marijuana through the passage of Initiative 148 which was codified as The Medical Marijuana Act ("The Act") in Title 50, Chapter 46. The Act permits individuals to grow, possess and use marijuana to treat certain chronic medical conditions, and permits other individuals, called caregivers, to grow, possess and transfer marijuana to designated clients who are certified to use marijuana for medical conditions. According to the Act, in order for a person to be permitted to use marijuana for a medical condition, a Montana-licensed doctor of medicine or osteopathy must conduct a proper medical evaluation and certify that the person has one of the conditions specified or the patient must present his or her medical record to the Department of Public Health and Human Services which enforces the Act.

The mission of the Board of Medical Examiners is to protect the public by ensuring that physicians are properly trained and provide medical services within their scope of competence. The Board of Medical Examiners takes no position on the general suitability of marijuana in the treatment of medical disorders, but does have an obligation to protect the public by ensuring that physicians provide medical services via a bona fide physician-patient relationship that meet the generally accepted standards of care. *continued, page 3*

Medical Marijuana Certification Position Paper, continued

The Board of Medical Examiners is concerned about reports of physicians who are certifying patients to use marijuana for medical conditions in a mass screening format and physicians who are conducting certifying evaluations exclusively through Internet consultations.

It is the Board of Medical Examiners' position that the certification of an individual to use marijuana for a medical condition requires the same standard of care as required when any conventional medication is prescribed. The Medical Marijuana Act requires the physician to conduct a "full assessment" as part of "a bona fide physician-patient relationship." (MCA 50-46-2101(11)). Therefore, a physician who certifies a patient for medical marijuana is held to the same generally accepted standards of care as apply to every other medical practice.

Generally accepted standards of care in any treatment process require the following in an amount adequate and appropriate to the patient, condition and treatment under consideration:

- Taking a medical history
- Performing a relevant physical examination
- Reviewing prior treatment and treatment response
- Obtaining and reviewing relevant diagnostic test results
- Discussing advantages, disadvantages, alternatives, potential adverse effects and expected response to the treatment recommended, and ensuring that the patient understands them
- Monitoring the response to treatment and possible adverse effects
- Creating and maintaining patient records
- Notifying the patient's primary care physician when appropriate

Consistent with 50-46-201(4), MCA, the Board of Medical Examiners will not apply a higher or special standard of care to the certification of individuals to use marijuana for medical conditions. Neither will the Board apply a lesser or special standard. If the physician fails to meet the generally accepted standards of practice when certifying a patient to use marijuana for a medical condition, the physician may be found to be practicing below the acceptable standard of care and subject to disciplinary action for unprofessional conduct.

The Board cautions physicians that a mass screening format or group evaluations, whether for student athletes or those desiring medical marijuana, inherently tend towards inadequate standards of care. A physician involved in mass screening settings or clinics offering group evaluations for medical marijuana certification must meet the standard of care which the people of Montana rightfully expect and deserve.

Similarly, a written certification provided after a patient evaluation conducted exclusively through currently available electronic methods or the Internet may be inadequate to evaluate the complex medical conditions for which marijuana is an approved therapy. The practice of telemedicine in Montana requires a Montana license and adherence to the same standards of care as required of all Montana-licensed physicians.

Addendum

The Board of Medical Examiners recognizes the statutory requirements that a written certification for medical marijuana requires a full assessment be completed by a physician, 50-6-102, MCA. At the current time, the standard of care for physicians certifying individuals for medical marijuana requires a "hands on" physical examination by a physician. The exclusive use of teleconference methods to certify individuals does not meet this level of standard of care.

Adopted: November 19, 2010

Questions and Answers

Q Why hasn't BOME shut down the traveling medical marijuana clinics?

A BOME does not have the legal authority to investigate a facility or business. The board may initiate an investigation against a licensee, but only if a licensee can be identified.

Q Can't BOME do something about physicians who are certifying hundreds of individuals?

A We can with your help and after you have filed a complaint with the board. The names of these physicians are oftentimes kept confidential and cannot be directly obtained by the BOME. The board will act on any complaint filed against a license. Six complaints have been filed for reasons related to certifications. One physician was disciplined and a second has been noticed. In addition, the board has drafted a guidance document (position paper) that stresses the point that a physician must follow the medical standard of care.

Q Can't BOME do something about out of state physicians who are certifying individuals?

A The licensure laws do not require that a physician be a resident of Montana to be granted an active license. Many health care facilities depend on out of state physicians to temporarily cover shifts or a vacancy until a position can be filled. As for certifying for medical marijuana, the Medical Marijuana Act deems information about these physicians as confidential and, thus, the names cannot be obtained by the BOME. The board does act on any complaint filed against a licensee.

Q Has the BOME done anything to stop what looks to be "bad medicine?"

A The board has acted on every complaint filed against a licensee. Six complaints have been filed for reasons related to medical marijuana. One physician was disciplined and a second has been noticed. In addition, the board has drafted a guidance document (position paper) that stresses the point that a physician must follow the medical standard of care.

Testimony, continued from page 1

of certification and the impairment is not just a short term situation related to injury, etc. We suggest you consider allowing the Advisory Committee to establish a list.

It should be encouraged that medical marijuana not be the initial treatment for a condition, but one to consider when traditional medical treatment options have failed.

Should you retain the list, we ask your consideration to revisit the documentation required to document chronic pain and accept that the two physician requirement as being adequate evidence for the diagnosis.

Definition of "standard of care"

The bill includes the definition for standard of care. The Board wants to alert the committee that "standard of care" is not a fixed medical term, but one that changes to be consistent with contemporary medical knowledge.

We are grateful for the interest to ensure "bad medicine" does not grow from the public's desire to see compassionate care and pain relief to those individuals stricken with painful illnesses and diseases. Thank you for your thoughtful consideration of this bill. I am available to answer questions.

Board Quick Facts

- License and regulate
acupuncturists, emergency
medical technicians,
nutritionists, physicians,
residents, telemedicine
physicians, physician assistants
and podiatrists
- 9,923 active licensees
- 4,108 active licensed physicians
of which 2,532 are in-state
- Receive about 170 complaints
each year
- Takes an average of 30 days to
get a license to practice
medicine in Montana
- Board has 13 members. 12
voting members are appointed
by the Governor and confirmed
by the Senate. One nonvoting
member is selected by MT
Academy of Physician
Assistants.
- Board members serve
staggered four year terms
- Board meets a minimum of six
times/year

Board Contact Information

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Amendments to Senate Bill No. 423
3rd Reading Copy

Requested by Representative Pat Noonan

For the House Human Services Committee

Prepared by Sue O'Connell
April 6, 2011 (2:38pm)

1. Title, page 1, line 6.
Strike: "LICENSING FOR"
Insert: "REGULATING"
2. Title, page 1, line 10.
Strike: "37-1-101"
3. Page 1, line 17.
Strike: "40"
Insert: "37"
4. Page 1, line 19.
Strike: "40"
Insert: "37"
5. Page 1, line 21.
Strike: "40"
Insert: "37"
6. Page 1, line 24.
Strike: "40"
Insert: "37"
7. Page 2, line 2.
Following: "products;"
Insert: "and"
8. Page 2, line 3.
Strike: subsection (iv) in its entirety
Renumber: subsequent subsections
9. Page 2, line 7.
Strike: "40"
Insert: "37"
10. Page 2, line 9 through line 10.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections
11. Page 2, line 17 through line 18.

Strike: "and by" on line 17 through "pain" on line 18

12. Page 2, line 19.

Following: "including"

Insert: "necessary and relevant"

13. Page 2, line 27.

Following: "hospice care"

Insert: ", assisted living, or a nursing home"

Following: ";

Strike: "or"

14. Page 2.

Following: line 27

Insert: "(k) post-traumatic stress disorder; or"

ReNUMBER: subsequent subsections

15. Page 2, line 28 through line 29.

Strike: "legislature" on line 28 through "[section 3]" on line 29

Insert: "department, which may consult with medical experts as
necessary to determine whether to add a medical condition or
treatment"

16. Page 3, line 4.

Strike: "courier,"

17. Page 3, line 5 through line 6.

Strike: "17 through 40"

Insert: "16 through 37"

18. Page 3, line 8.

Strike: "17 through 40"

Insert: "16 through 37"

19. Page 3, line 15.

Strike: "17 through 40"

Insert: "16 through 37"

20. Page 3, line 16.

Strike: "23"

Insert: "21"

21. Page 3, line 21 through line 22.

Strike: "that has existed" on line 21 through "assessed" on line
22

22. Page 4, line 2 through line 3.

Strike: subsection (16) in its entirety

ReNUMBER: subsequent subsections

23. Page 4, line 4.

Strike: "3"

Insert: "3"

24. Page 4, line 7.

Strike: "40"

Insert: "37"

25. Page 4, line 19.

Following: "reviewing"

Insert: "any necessary and"

26. Page 4, line 25 through line 26.

Strike: "OR A QUALIFYING" on line 25 through "PAIN" on line 26

27. Page 5, line 2.

Strike: "LABOR AND INDUSTRY"

Insert: "agriculture"

28. Page 5, line 3.

Strike: "2-15-1701"

Insert: "2-15-3001"

29. Page 5, line 6.

Strike: "20"

Insert: "19"

30. Page 5, line 7.

Strike: "17 through 40"

Insert: "16 through 37"

31. Page 5, line 12.

Strike: "20"

Insert: "19"

Strike: "17 through 40"

Insert: "16 through 37"

32. Page 5, line 30 through page 6, line 24.

Strike: section 3 in its entirety

Renumber: subsequent sections

33. Page 6, line 28.

Strike: "40"

Insert: "37"

34. Page 7, line 2 through line 3.

Strike: "objective proof" on line 2 through "the results of" on line 3

Insert: "a written statement from the physician stating that physician has conducted a thorough exam of the patient and a

review of the patient's medical records and the results of any necessary and relevant"

35. Page 7, line 11.

Strike: "40"

Insert: "37"

36. Page 7, line 13.

Following: "or"

Insert: "or"

37. Page 7, line 15.

Strike: "OR"

Insert: "and"

38. Page 7, line 16 through line 17.

Strike: subsection (III) in its entirety

39. Page 8, line 10.

Strike: "40"

Insert: "37"

40. Page 8, line 12.

Strike: "40"

Insert: "37"

41. Page 8, line 14.

Strike: "5"

Insert: "4"

42. Page 8, line 21.

Strike: "shall"

Insert: "may"

Following: "verify"

Insert: "any portion of"

43. Page 8, line 23.

Following: "renewal"

Insert: "and all required application materials"

44. Page 8, line 28.

Strike: "40"

Insert: "37"

45. Page 9, line 11.

Strike: "name"

Insert: "registry identification card number"

46. Page 10, line 8 through line 10.

Following: "patient" on line 8

Strike: "that has" on line 8 through "assessed" on line 10

47. Page 10, line 26 through line 27.

Strike: "or the second" on line 26 through "chronic pain" on line 27

48. Page 10, line 30.

Strike: "40"

Insert: "37"

49. Page 11, line 6.

Strike: "25"

Insert: "50"

50. Page 11, line 16.

Strike: "16"

Insert: "15"

51. Page 11, line 18.

Strike: "16"

Insert: "15"

52. Page 12, line 6.

Strike: "40"

Insert: "37"

53. Page 12, line 7.

Strike: "40"

Insert: "37"

54. Page 12, line 21.

Following: "number"

Insert: ", visibility, signage,"

55. Page 13, line 1.

Strike: "14"

Insert: "13"

56. Page 13, line 7.

Strike: "or a courier"

57. Page 13, line 9.

Strike: "or courier"

58. Page 13, line 12.

Strike: "or courier"

59. Page 13, line 30.

Strike: "4"

Insert: "3"

Strike: "12"

Insert: "6"

60. Page 14, line 12.

Strike: "or"

Insert: ", "

Following: "licensee"

Insert: ", or employee or contractor of the licensee"

61. Page 14, line 12.

Strike: "or"

Insert: ", "

Following: "licensee"

Insert: ", employee, or contractor"

62. Page 14, line 13.

Following: "license"

Insert: ", or identification card"

Strike: "and"

63. Page 14, line 15.

Strike: "40"

Insert: "37"

Following: "];"

Insert: "or"

(iii) is transporting therapeutic marijuana to a registered cardholder and is in possession of:

(A) a copy of the grower's or manufacturer's license;

(B) an identification card issued by the state licensing authority; and

(C) the registry identification card number of the cardholder to whom the marijuana is being delivered"

64. Page 14, line 16.

Following: "rebutted by"

Insert: "clear and convincing"

65. Page 15, line 6.

Strike: "14"

Insert: "13"

66. Page 15, line 7.

Strike: "4"

Insert: "3"

Following: "]"

Strike: "or"

Insert: ", "

Following: "licensed"

Strike: "or registered"

67. Page 15, line 8.

Strike: "40"

Insert: "37"

Following: "]"

Insert: ", or a person employed by a licensee or contracting with
a licensee in accordance with the provisions of [sections 1
through 37]"

68. Page 15, line 12.

Strike: "10"

Insert: "9"

69. Page 15, line 14.

Strike: "registrant"

Insert: "an employee or contractor of the licensee"

70. Page 15, line 22.

Strike: "40"

Insert: "37"

71. Page 15, line 28.

Strike: "40"

Insert: "37"

72. Page 16, line 2.

Strike: "37"

Insert: "35"

Strike: ", "

Insert: "or"

Following: "license"

Strike: ", or registration"

73. Page 16, line 8 through line 9.

Following: "CARD"

Strike: "┐"

Insert: "or"

Following: "LICENSE"

Strike: "┐ OR" on line 8 through "REGISTRATION" on line 9

Insert: "or has obtained an identification card as an employee or
contractor"

74. Page 16, line 10.

Strike: "REGISTRATION"

Insert: "identification card"

75. Page 16, line 15.

Strike: "40"

Insert: "37"

76. Page 16, line 21.

Strike: "40"

Insert: "37"

77. Page 17, line 10.

Following: "chapter 5,"

Insert: "an assisted living facility, or a nursing home"

78. Page 17, line 12.

Strike: "40"

Insert: "37"

79. Page 18, line 10.

Strike: "40"

Insert: "37"

80. Page 18, line 15.

Strike: "16"

Insert: "15"

81. Page 18, line 19 through line 22.

Strike: subsection (c) through subsection (d) in their entirety

Renumber: subsequent subsections

82. Page 18, line 24.

Strike: "7"

Insert: "6"

83. Page 18, line 27.

Strike: "16"

Insert: "15"

84. Page 19, line 1.

Strike: "17 through 40"

Insert: "16 through 37"

85. Page 19, line 2.

Strike: "LABOR AND INDUSTRY"

Insert: "agriculture"

86. Page 19, line 4.

Strike: "17 through 40"

Insert: "16 through 37"

87. Page 19, line 5 through line 6.

Strike: "and operation" on line 5 through "[section 39]" on line

6

88. Page 19, line 9.

Strike: "DETERMINE THE NUMBER OF LICENSES TO BE ISSUED"

Insert: "issue licenses"

89. Page 19, line 10 through line 11.

Following: "GROWERS" on line 10

Strike: "1"

Insert: "and"

Strike: ", AND" on line 10 through "PERIODIC" on line 11

Insert: ". The state licensing authority shall conduct"

Following: "reviews"

Insert: "every 2 years"

90. Page 19, line 14.

Strike: "INITIAL REVIEW AND"

91. Page 19, line 16.

Strike: "AND"

92. Page 19.

Following: line 16

Insert: "(ii) deny applications to renew licenses; or"

Renumber: subsequent subsections

93. Page 19, line 22 through line 25.

Strike: "40" in each place it appears

Insert: "37" in place of 40 in each place

94. Page 19, line 29.

Strike: "40"

Insert: "37"

95. Page 20, line 8.

Following: "applications"

Insert: "for licensees and the employees and contractors of
licensees"

96. Page 20, line 9.

Strike: "17 through 40"

Insert: "16 through 37"

97. Page 20, line 27.

Strike: "17 through 40"

Insert: "16 through 37"

98. Page 21, line 5.

Strike: "40"

Insert: "37"

99. Page 21, line 18.

Strike: "40"

Insert: "37"

100. Page 21, line 19.

Strike: "40"

Insert: "37"

101. Page 21, line 21.

Strike: "registrant"

Insert: "licensee's employees or contractors"

102. Page 21, line 29.

Following: "may"

Strike: "not"

103. Page 22, line 2.

Strike: "the use" through "marijuana"

Insert: "the issuance of identification cards for the employees of licensees and contractors who are involved in cultivating, manufacturing, or transporting therapeutic marijuana or therapeutic marijuana-infused products"

104. Page 22, line 7.

Strike: "may"

Insert: "shall"

105. Page 22, line 9.

Strike: "40"

Insert: "37"

106. Page 22, line 15.

Strike: "(1)"

107. Page 22, line 17 through line 20.

Following: "an applicant" on line 17

Strike: "must be" through "this section" on line 20

ReNUMBER: subsequent subsections

108. Page 22, line 27.

Strike: "2"

Insert: "3"

109. Page 23, line 4.

Strike: subsection (a) in its entirety

ReNUMBER: subsequent subsections

110. Page 23, line 8.

Following: "[SECTION 19]"

Insert: "; "

Following: "AND"

Insert: "(d) identification cards"

111. Page 23, line 9.

Following: "employed by"

Insert: "a licensee or a laboratory or"

Following: "working in"

Strike: ", "

112. Page 23, line 12.

Strike: "17 through 40"

Insert: "16 through 37"

113. Page 23, line 16.

Strike: "17 through 40"

Insert: "16 through 37"

114. Page 23, line 18 through page 24, line 10.

Strike: section 22 in its entirety

Renumber: subsequent sections

115. Page 23, line 20.

Strike: "9"

Insert: "8"

116. Page 23, line 28.

Strike: "40"

Insert: "37"

117. Page 24, line 29.

Strike: "26"

Insert: "24"

118. Page 24, line 30.

Strike: "27"

Insert: "25"

119. Page 25, line 7.

Strike: "40"

Insert: "37"

120. Page 25, line 8.

Strike: "17 through 40"

Insert: "16 through 37"

121. Page 25, line 22.

Strike: "95"

Insert: "100"

122. Page 25.

Following: line 26

Insert: "(3) A therapeutic marijuana grower may operate offices
at which it may discreetly dispense therapeutic marijuana in

accordance with rules adopted by the state licensing authority, as follows:

(a) two offices for a grower with 50 or more registered cardholders; and

(b) one office for a grower with fewer than 50 registered cardholders."

Renumber: subsequent subsections

123. Page 25, line 29.

Following: "and"

Insert: "and"

124. Page 25, line 30 through page 26, line 1.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

125. Page 26, line 3 through line 6.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

126. Page 26.

Following: line 25

Insert: "(3) A therapeutic marijuana-infused products manufacturer may operate offices at which it may discreetly dispense therapeutic marijuana in accordance with rules adopted by the state licensing authority, as follows:

(a) two offices for a manufacturer with 50 or more registered cardholders; and

(b) one office for a manufacturer with fewer than 50 registered cardholders."

Renumber: subsequent subsections

127. Page 27, line 16.

Strike: "or registration"

128. Page 27, line 28.

Strike: "or registrant"

Insert: ", employee, or contractor"

129. Page 28, line 4.

Strike: "(6) (b) "

Insert: "(5) (b) "

130. Page 28.

Following: line 11

Insert: "(c) An identification card for an employee or contractor is valid for the period of time determined by the state licensing authority."

131. Page 28, line 12.

Strike: "or registration"
Strike: "17 through 40"
Insert: "16 through 37"

132. Page 28, line 13.
Strike: "or registrant"

133. Page 28, line 14 through line 15.
Strike: "or registration" on line 14
Strike: the second "or" on line 14 through "holds" on line 15
Insert: "held"

134. Page 28, line 18.
Following: "manager," in both places
Strike: "or"
Insert: "employee" in both places
Insert: ", or contractor"

135. Page 28, line 23.
Strike: "required"
Insert: "card issued"

136. Page 29, line 21.
Strike: "40"
Insert: "37"

137. Page 29, line 23.
Strike: "40"
Insert: "37"

138. Page 30, line 17.
Strike: "17 through 40"
Insert: "16 through 37"

139. Page 30, line 22.
Insert: "(4) A licensee shall display a duplicate license at any office where the licensee does business."

140. Page 30, line 23 through line 24.
Strike: "Cash"
Insert: "Documentation of"
Strike: "prohibited"
Strike: "(1) Cash" on line 23 through "prohibited." on line 24
Renumber: subsequent subsections

141. Page 30, line 29 through line 30.
Strike: subsection (4) in its entirety

142. Page 31, line 6 through line 7.
Strike: "17 through 40" in both places

Insert: "16 through 37" in both places

143. Page 31, line 8.

Strike: "or courier license"

144. Page 31, line 15.

Strike: "8"

Insert: "7"

145. Page 31, line 16.

Strike: the first "shall"

Insert: "may"

146. Page 31, line 23.

Strike: "17 through 40"

Insert: "16 through 37"

147. Page 31, line 29.

Strike: "40"

Insert: "37"

148. Page 32, line 11.

Strike: "38"

Insert: "36"

149. Page 32, line 18.

Strike: "40"

Insert: "37"

150. Page 32, line 21.

Strike: "17 through 40"

Insert: "16 through 37"

151. Page 32, line 128 through 29.

Strike: "17 through 40"

Insert: "16 through 37"

152. Page 32, line 30.

Strike: "40"

Insert: "37"

153. Page 33, line 2 through line 3.

Strike: "registration" in both places

Insert: "identification card" in both places

Strike: "40"

Insert: "37"

154. Page 33, line 5.

Strike: "37"

Insert: "35"

155. Page 33, line 7.

Strike: "17 through 40"

Insert: "16 through 37"

156. Page 33, line 8.

Strike: "32"

Insert: "30"

157. Page 33, line 9.

Strike: "32"

Insert: "30"

158. Page 33, line 10.

Following: "signs"

Insert: "other than those approved by the state licensing
authority or a local government pursuant to [section 7]"

159. Page 33, line 13.

Strike: "17 through 40"

Insert: "16 through 37"

160. Page 33, line 17.

Strike: "unless the licensee is a courier"

161. Page 33, line 20.

Following: "premises"

Insert: "unless the marijuana was obtained through a transfer as
allowed under [section 22]"

162. Page 33, line 22.

Strike: "17 through 40"

Insert: "16 through 37"

163. Page 34, line 3.

Strike: "frequent"

Insert: "regular"

164. Page 34, line 9.

Strike: "40"

Insert: "37"

165. Page 34.

Following: line 11

Insert: "(3) The state licensing authority shall share with the
department of revenue provided for in 2-15-1301 any
financial records requested by that department."

Renumber: subsequent subsections

166. Page 34, line 21.

Following: "tax year and"

Strike: "the"

Insert: "up to"

Strike: "immediately" through "tax year"

Insert: "during the term of the license"

167. Page 34, line 22.

Strike: "month"

Insert: "quarter"

168. Page 34, line 23.

Strike: "month"

Insert: "quarter"

169. Page 34, line 24.

Strike: "through reimbursement of costs"

170. Page 34, line 29.

Strike: "names and"

171. Page 35, line 16 through line 7.

Strike: "17 through 40" in both places

Insert: "16 through 37" in both places

172. Page 35, line 10.

Strike: "40"

Insert: "37"

173. Page 35, line 27 through page 36, line 2.

Strike: section 39 in its entirety

ReNUMBER: subsequent sections

174. Page 36, line 5.

Strike: "17 through 40"

Insert: "16 through 37"

175. Page 36, line 10.

Strike: "Money"

Insert: "Beginning July 1, 2015, 50% of the money"

176. Page 36, line 12 through page 37, line 20.

Strike: section 41 in its entirety

177. Page 38, line 9.

Strike: "40"

Insert: "37"

178. Page 40, line 4.

Strike: "40"

Insert: "37"

179. Page 40, line 18.

Strike: "40"

Insert: "37"

180. Page 40, line 30.

Strike: "40"

Insert: "37"

181. Page 43, line 15.

Strike: "40"

Insert: "37"

182. Page 43, line 19.

Strike: "40"

Insert: "37"

183. Page 44, line 24.

Strike: "40"

Insert: "37"

184. Page 46, line 13.

Strike: "40"

Insert: "37"

185. Page 46, line 26.

Strike: "40"

Insert: "37"

186. Page 47, line 24.

Strike: "40"

Insert: "37"

187. Page 48, line 4.

Strike: "4"

Insert: "3"

188. Page 48, line 8.

Strike: "6"

Insert: "5"

189. Page 48, line 12.

Strike: "40"

Insert: "37"

190. Page 48, line 23.

Strike: "40"

Insert: "37"

191. Page 48, line 25 through page 50, line 14.

Strike: section 55 through section 56 in their entirety

Renumber: subsequent sections

192. Page 51, line 20.

Strike: "registration"

Insert: "an identification card"

Strike: "40"

Insert: "37"

193. Page 51, line 27.

Strike: "registration"

Insert: "identification card"

194. Page 52, line 18 through line 21.

Strike: section 58 in its entirety

195. Page 53, line 5.

Insert: "NEW SECTION. **Section 53. Appropriation.** (1) The following money is appropriated from the special revenue account created in [section 37] to the state licensing authority for the purposes of carrying out the provisions of [sections 16 through 37]:

Fiscal year 2012 \$AN AMOUNT

Fiscal year 2013 \$AN AMOUNT

(2) There is appropriated \$350,000 in fiscal year 2012 to the state licensing authority from the special revenue account credited to the department of public health and human services for the medical marijuana registry. The state licensing authority shall use the appropriation to hire up to 4 FTE and to carry out the provisions of [sections 16 through 37]."

196. Page 53, line 6.

Strike: "(a) "

197. Page 53, line 7 through line 8.

Strike: "SECTION 65(4) "

Insert: "this act"

Strike: "that did not" on line 7 through "pain" on page 8

Following: "card"

Insert: "(2) A caregiver who obtained a registry identification card prior to [the effective date of this act] is protected by the provisions of Title 50, chapter 46, that are in effect through December 31, 2011.

(3) A person who is in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on or after January 1, 2012, and who has not obtained a registry identification card issued pursuant to [section 3] or a license or identification card issued pursuant to [section 16 through 37] is not protected by the provisions of

[this act]."

198. Page 53, line 9 through page 54, line 26.

Strike: subsection (b) through subsection (4) in their entirety

199. Page 55, line 16.

Strike: "14"

Insert: "13"

200. Page 55, line 22.

Strike: "(4)"

Insert: "(3)"

201. Page 55, line 23.

Strike: "October 1, 2011"

Insert: "January 1, 2012"

202. Page 55, line 24.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

203. Page 55, line 25.

Strike: "[Section 4]" through "ARE"

Insert: "[Section 53] is"

204. Page 55, line 26 through page 27.

Strike: "[Sections 55, 56 and 58]" on line 26 through "63" on line 27

Insert: "[Sections 57 and 58]"

- END -

EXHIBIT 14
DATE 4/6/2011
SB 723

Representative Noonan ---- Amendments

Representative Essmann ---- SB423

Rep. Smith ----- Amendments

While boasting many benefits... SB423 by itself does nothing for the state of Montana or its citizens. It aims to lower the number of legal cardholders... and it would in fact do that, it's logical to assume however that those who were abusing the system will have no difficulty obtaining marijuana from a black market source and would in fact lead to an increase in the illegal drug market... harming only the law abiding citizen... It aims to make safer communities and safer schools but how will it do that? Drug abuse by teens is not a recent trend and marijuana was abused by teens long before medical marijuana laws were being enacted... so it's not fixing nothing in that sense... others might say "what about the message were sending to our children"... which might be a fair argument except there's not a person in this room that supports the use of meth yet it's in our communities and its infiltrated our schools... Perhaps the only message we would be sending to our children is that it's okay to persecute the many for the abuses of the few. Representative Smiths' amendments would have a judge and jury be the deciding factor in if someone is a medical patient... rather than a doctor... as fun as it might be for some to entertain this idea it borders on absurd... perhaps a judge and jury should decide if someone is a "real" patient whenever someone is prescribed Vicodin, Oxycontin or a host of other abused medications... or perhaps we should leave it entrusted to our medical professionals to do their jobs. Representative Noonans amendments are a logical and fair approach to the problems faced and I urge you to consider his amendments carefully. I would like to finish by thanking the representatives who have been supportive of the tens of thousands of Montanans affected by medical marijuana. Thank you!

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION**

HOUSE HUMAN SERVICES COMMITTEE

Date: Wednesday, April 6, 2011
Place: Capitol

Time: 3:00 PM
Room: 152

BILLS and RESOLUTIONS HEARD:

SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

SB 423

Comments:



REP. David Howard, Chair

HOUSE OF REPRESENTATIVES
Roll Call
HUMAN SERVICES COMMITTEE

DATE: 4/6/2011

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. DAVID HOWARD, CHAIR	✓	
REP. CARY SMITH, VICE CHAIR	✓	
REP. LIZ BANGERTER	✓	
REP. STEVE FITZPATRICK		✓
REP. TIM FUREY	✓	
REP. ELLIE BOLDMAN HILL	✓	
REP. CHUCK HUNTER	✓	
REP. PAT INGRAHAM	✓	
REP. DAN KENNEDY	✓	
REP. MICHAEL MORE	✓	
REP. PAT NOONAN, VICE CHAIR		✓
REP. CAROLYN PEASE-LOPEZ	✓	
REP. JOE READ	✓	
REP. DAN SKATTUM	✓	
REP. MAX YATES		✓

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE: 4/6/2011 BILL NO SB 423 MOTION NO. _____
MOTION: _____

to delay executive action

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. CARY SMITH, VICE CHAIR	☒	☒	
REP. PAT NOONAN, VICE CHAIR	☒		
REP. LIZ BANGERter	☒		
REP. STEVE FITZPATRICK		☒	
REP. TIM FUREY	☒		
REP. ELLIE BOLDMAN HILL	☒		
REP. CHUCK HUNTER	☒		
REP. PAT INGRAHAM		☒	
REP. DAN KENNEDY		☒	
REP. MICHAEL MORE		☒	
REP. CAROLYN PEASE-LOPEZ	☒		
REP. JOE READ		☒	
REP. DAN SKATTUM		☒	
REP. MAX YATES		☒	
REP. DAVID HOWARD, CHAIR		☒	

7 8

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE: 4/6/2011 BILL NO SB 423 MOTION NO. _____

MOTION: Be amended

Rep. Noonan

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. CARY SMITH, VICE CHAIR		✓	
REP. PAT NOONAN, VICE CHAIR	✓		
REP. LIZ BANGERter		✓	
REP. STEVE FITZPATRICK		✓	
REP. TIM FUREY	✓		
REP. ELLIE BOLDMAN HILL	✓		
REP. CHUCK HUNTER	✓		
REP. PAT INGRAHAM		✓	
REP. DAN KENNEDY		✓	
REP. MICHAEL MORE		✓	
REP. CAROLYN PEASE-LOPEZ	✓		
REP. JOE READ		✓	
REP. DAN SKATTUM		✓	
REP. MAX YATES		✓	
REP. DAVID HOWARD, CHAIR		✓	

5

10

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE: 4/6/2011 BILL NO SB 423 MOTION NO. _____
MOTION: _____

Be amended
SB 042323.aso

Rep Smith

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. CARY SMITH, VICE CHAIR	☒	☐	
REP. PAT NOONAN, VICE CHAIR	☐	☒	
REP. LIZ BANGERter	☒	☐	
REP. STEVE FITZPATRICK	☐	☒	
REP. TIM FUREY	☐	☒	
REP. ELLIE BOLDMAN HILL	☐	☒	
REP. CHUCK HUNTER	☒	☐	
REP. PAT INGRAHAM	☒	☐	
REP. DAN KENNEDY	☒	☐	
REP. MICHAEL MORE	☒	☐	
REP. CAROLYN PEASE-LOPEZ	☐	☒	
REP. JOE READ	☒	☐	
REP. DAN SKATTUM	☒	☐	
REP. MAX YATES	☒	☐	
REP. DAVID HOWARD, CHAIR	☒	☐	

10

5

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE: 4/6/2011 BILL NO SB 423 MOTION NO. _____

MOTION: do concur

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. CARY SMITH, VICE CHAIR	✓		
REP. PAT NOONAN, VICE CHAIR		✓	
REP. LIZ BANGERTE	✓		
REP. STEVE FITZPATRICK	✓		
REP. TIM FUREY		✓	
REP. ELLIE BOLDMAN HILL		✓	
REP. CHUCK HUNTER	✓		
REP. PAT INGRAHAM	✓		
REP. DAN KENNEDY	✓		
REP. MICHAEL MORE	✓		
REP. CAROLYN PEASE-LOPEZ	✓		
REP. JOE READ	✓		
REP. DAN SKATTUM	✓		
REP. MAX YATES	✓		
REP. DAVID HOWARD, CHAIR	✓		

12 - 3

MONTANA House of Representatives
Visitors Register
HOUSE HUMAN SERVICES COMMITTEE

Wednesday, April 6, 2011

SB 423 - Generally revise laws relating to use of marijuana

Sponsor: Senator Jeff Essmann

★
Please
✓

PLEASE PRINT

Name	Representing	Support	Oppose
Taunyaah Ford	The Patch Inc		X
Travis Green	Lionheart Caregiving		X
JENNIFER FANUZZI	LIONHEART BUTTE		X
Pat Bollinger	Bd of Medical Examiners		
Roy Kemp	DPHHS		X
MARK MURPHY	MCRP & MRCBP & MRRB	X	
Jon Brannon	MT Chamber	X	
William M. Reid	Canni-RK Caregivers		X
SHARON Deyo	Helena, MT		X
Joel Murphy	Family	only if HB to be passed	
James Haney	Heaven Sent Wellness		X
Nathan Pierce	Montana for Prosthetic Legs		X
John Barrows	MT Newspaper Assoc		X
PAT Keim	ALTERNATIVES INC Columbia Energy, Inc	X	
Jack Mayes-Gambury	The Patch /self		X
Riley Johnson	NFIB	X	
Mike Furlong	BMC		X
Sarah Baugh	Citizens for Cannabis Compassion	X	X X
Christa Moniz	Self		X
Barb Vega	Self		X
Susan Tyler	Self		X
Ed BARTLETT	CITY OF BILLINGS	X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE HUMAN SERVICES COMMITTEE

Wednesday, April 6, 2011

SB 423 - Generally revise laws relating to use of marijuana

Sponsor: Senator Jeff Essmann

PLEASE PRINT

Name	Representing	Support	Oppose
Taylor Long	Self		X
Mike Foster	Catholic Hospitals	✓	
Barbi McLaws	Safe Comm Safe Kids		X
Laura Dee Neidham			X
Bob Faw	Myself	X	
Sheryl Wexx	MDCU	X	
Ryan Trevithick	Lionheart CareGiving		X
Mark Long	MNCA	X	
Ali Burdick	Attorney General's office	X	
Diane Sandy	Self HB 95	for 423	Anna Smith
GARY MACLAREN	Self HB 89	" "	" "
Jim Smith	Self	" "	" "
Amel Grunizer	Billings Clinic	X	
Kate Cholewick	AB'S		X
Rose Habib	Cannabis Analysis		X
And Whitman	MT Medical Assn		X
Cherie Brady	Billings, MT SCSK's	Support Repeal	X
Henry Bolger	MCNA		X
Tom Dabert	Patients & Families United		X
Susie Hamilton	myself	X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.



HOUSE STANDING COMMITTEE REPORT

April 6, 2011
Page 1 of 20

Mr. Speaker:

We, your committee on **Human Services** recommend that **Senate Bill 423** (third reading copy -- blue) be concurred in as amended.

Signed: _____

Representative David Howard, Chair

To be carried by Representative Cary Smith

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "THERAPEUTIC"

2. Title, page 1, line 6.

Strike: "SYSTEM OF LICENSING"

Insert: "REGISTRY PROGRAM"

3. Title, page 1, line 7 through line 9.

Strike: "FOR" on line 7 through "USE" on line 8

Insert: "BY CERTAIN INDIVIDUALS"

Strike: "CREATING" on line 8 through "ACCOUNT;" on line 9

4. Title, page 1, line 10 through line 11.

Strike: "37-1-101, 37-1-136"

Following: "41-5-216,"

Strike: "45-9-101" on line 10 through "50-46-202," on line 11

Insert: "45-9-203,"

5. Page 1, line 14.

Insert: "WHEREAS, the state of Montana understands that manufacturing, distributing, or dispensing a controlled substance or possessing a controlled substance with intent to manufacture, distribute, or dispense the substance is a violation of the federal Controlled Substances Act; and

Committee Vote:

Yes 12, No 3

Fiscal Note Required ☐

SB0423001SC06483.hgh

11-217
10-10-11

WHEREAS, marijuana is listed as a Schedule I controlled substance under that act; and

WHEREAS, by allowing the limited use of marijuana under the Montana Marijuana Act, the State of Montana does not condone the commission of a criminal violation of the federal Controlled Substances Act."

6. Page 1, line 17.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 17] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 17] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 17] by persons who obtain registry identification cards; and

(c) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions."

Insert: "NEW SECTION. Section 2. Definitions. As used in [sections 1 through 17], the following definitions apply:

(1) "Debilitating medical condition" means a medical condition determined by a physician to be debilitating for the person diagnosed with the condition.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Local government" means a county, a consolidated government, or an incorporated city or town.

(4) "Marijuana" has the meaning provided in 50-32-101.

(5) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(6) "Paraphernalia" has the meaning provided in 45-10-101.

(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office located in Montana.

(8)(a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to cultivate, manufacture, possess, or transport marijuana for use by a registered cardholder.

(b) The term does not include the cardholder's physician.

(9) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(10) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder or provider.

(11)(a) "Resident" means an individual who meets the

requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 17] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(12) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(13) "Standard of care" means the standard established by rule by the board of medical examiners.

(14) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(15) "Written certification" means a statement signed by a treating physician that meets the requirements of [section 6] and is provided in a manner that meets the standard of care."

Insert: "NEW SECTION. Section 3. Department responsibilities - issuance of cards -- confidentiality -- reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 17]; and

(ii) are named as providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 17].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider.

(3) Registry identification cards issued pursuant to [sections 1 through 17] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition or for a provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall verify the information

contained in an application or renewal submitted pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 15 days of approving an application or renewal.

(5) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder changes providers. A provider's registry identification card expires at the time the department issues a card to a new provider named by a registered cardholder.

(6) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, or provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(7) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (8), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(8) The department shall provide the names of registered cardholders and providers to the local law enforcement agency having jurisdiction in the area in which the cardholders or providers live. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 14].

(9) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 15 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(10) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders or physicians."

Insert: "NEW SECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) and (3), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider;
- (f) the name of the person's treating physician and the street address and telephone number of the physician's office;
- (g) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (h) the name, date of birth, and street address of the individual the person has selected as a provider, if any; and
- (i) a statement from the person's treating physician as required pursuant to [section 6].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions signs and submits a written statement that:

(a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(b) the minor's custodial parent or legal guardian with responsibility for health care decisions:

- (i) consents to the use of marijuana by the minor;
- (ii) agrees to serve as the minor's provider;
- (iii) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and
- (iv) undergoes a name-based background check. The parent or legal guardian shall pay the costs of the background check.

(3) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or manufacture marijuana for the cardholder's use.

(5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

- (a) at a property that is owned by the cardholder; or
- (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(6) No portion of the property used for cultivation and

manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

Insert: "NEW SECTION. Section 5. Providers -- requirements -- limitations. (1) The department shall issue a registry identification card to the person who is named as a provider in a registered cardholder's approved application if the person submits to the department:

- (a) the person's name, date of birth, and street address on a form prescribed by the department;
- (b) proof that the person is a Montana resident;
- (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;
- (d) a written agreement signed by the registered cardholder;
- (e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered cardholder at a property owned, rented, or leased by the cardholder or by the person; and
- (f) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person as a provider if the person:

- (a) has a felony conviction or a conviction for a drug offense;
- (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- (c) has failed to:
 - (i) pay any taxes, interest, penalties, or judgments due to a government agency;
 - (ii) stay out of default on a government-issued student loan;
 - (iii) pay child support; or
 - (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency.

(3) A provider may assist only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage.

(4) Marijuana for use pursuant to [sections 1 through 17] must be cultivated and manufactured in Montana.

(5) A provider may not:

- (a) accept compensation for any services or products provided to a registered cardholder;
- (b) use marijuana; or
- (c) be a registered cardholder.

(6) (a) A provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

- (i) a property that is owned by the provider;
- (ii) with written permission of the landlord, a property that is rented or leased by the provider; or
- (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or another registered cardholder."

Insert: "NEW SECTION. Section 6. Physician statement. (1) The written certification provided by a physician must:

(a) confirm that the physician is the person's treating physician and that the person has been under the physician's medical care and supervision;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) describe the medications, procedures, and other medical options used to treat the condition;

(e) state that the medications, procedures, or other medical options have not been effective;

(f) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(g) list restrictions on the person's activities due to the use of marijuana;

(h) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; and

(i) state that the physician will:

(i) continue to serve as the person's treating physician; and

(ii) supervise the person's use of marijuana and evaluate the efficacy of the treatment.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

Insert: "NEW SECTION. Section 7. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder or provider shall keep the cardholder's or provider's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge."

Insert: "NEW SECTION. Section 8. Health care facility procedures for patients with marijuana for use. (1) Except for hospices that allow the use of marijuana as provided in [section 10], a health care facility as defined in 50-5-101 shall take the

following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises."

Insert: "NEW SECTION. Section 9. Legal protections --

allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 17].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or

other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 17].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge."

Insert: "NEW SECTION. **Section 10. Limitations of the act.** (1) [Sections 1 through 17] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) in a correctional facility;

(vii) at a public park, public beach, public recreation center, or youth center;

(viii) in or on the property of any church, synagogue, or other place of worship;

(ix) in plain view of or in a place open to the general public; or

(x) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder or a provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 17] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a person with a debilitating medical condition;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder or a provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 17] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 17] may be construed to allow a provider to use marijuana or to prevent criminal prosecution of a provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a registered cardholder or provider is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder or provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal."

Insert: "NEW SECTION. Section 11. Local government authority

to regulate. To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government."

Insert: "NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or
(b) allows another person to be in possession of the cardholder's:

(i) registry identification card; or
(ii) marijuana plants or usable marijuana.

(2) A registered cardholder or a provider who violates [sections 1 through 17] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 17] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

Insert: "NEW SECTION. Section 13. Fraudulent representation - penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder or a provider is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 6] is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both."

Insert: "NEW SECTION. Section 14. Confidentiality of registry information -- penalty. (1) A person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 17].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both."

Insert: "NEW SECTION. Section 15. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating medical condition or the

person's provider."

Insert: "NEW SECTION. Section 16. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 17] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 17].

(2) A law enforcement agency in possession of marijuana plants seized as evidence is not responsible for the care and maintenance of the plants."

Insert: "NEW SECTION. Section 17. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 17]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and for persons with debilitating medical conditions and renewal of registry identification cards for providers and registered cardholders;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [section 5]; and

(d) other rules necessary to implement the purposes of [sections 1 through 17].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 17]."

Insert: "Section 18. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent

advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

- (a) peer review committee;
- (b) professional association; or
- (c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17]."

Insert: "Section 19. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Insert: "Section 20. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through 17];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Insert: "Section 21. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system

maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6) (b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7) (a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need

of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

Insert: "Section 22. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 12]."

Insert: "Section 23. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5

days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

- (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;
- (b) forfeiture of bail that is not vacated; or
- (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5) (a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

Insert: "NEW SECTION. Section 24. Repealer. The following

sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees."

Insert: "NEW SECTION. Section 25. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to the [effective date of this act] are valid until the expiration date listed on the card.

(2) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July 1, 2011, may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items."

Insert: "NEW SECTION. Section 26. Codification instruction. [Sections 1 through 17] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 17]."

Insert: "COORDINATION SECTION. Section 27. Coordination instruction. (1) If both House Bill No. 161 and [this act] are passed and approved, then [this act] is void.

(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void."

Insert: "NEW SECTION. Section 28. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 7 of Senate Bill No. 423]."

Insert: "NEW SECTION. Section 29. Severability. If a part of

[this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Insert: "NEW SECTION. **Section 30. Effective date.** This act is effective July 1, 2011."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: Chair Walter McNutt, on April 8, 2011 at 8:00 AM, in Room 102 Capitol

ROLL CALL

Members Present:

Rep. Walter McNutt, Chairman (R)
Rep. Bill Beck, Vice Chairman (R)
Rep. Cynthia Hiner, Vice Chairman (D)
Rep. Duane Ankney (R)
Rep. Tony Belcourt (D)
Rep. Randy Brodehl (R)
Rep. Tom Burnett (R)
Rep. Rob Cook (R)
Rep. Mike Cuffe (R)
Rep. Champ Edmunds (R)
Rep. Ron Ehli (R)
Rep. John Esp (R)
Rep. Steve Gibson (R)
Rep. Roy Hollandsworth (R)
Rep. Robert (Bob) Mehlhoff (D)
Rep. Ryan Osmundson (R)
Rep. Don Roberts (R)
Rep. Trudi Schmidt (D)

Members Excused: Rep. Galen Hollenbaugh (D)
Rep. Bill McChesney (D)
Rep. Jon C. Sesso (D)

Members Absent: None

Staff Present: Jon Moe, Legislative Branch
Sandra Sullivan, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

HEARING ON SB 187

Opening Statement by Sponsor:

00:54:30 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 187, Generally revise public defender laws.

Proponents' Testimony:

Opponents' Testimony:

01:00:56 Fritz Gillespie, Montana Magistrates Association

Informational Testimony:

01:07:45 Larry Carver, Montana Magistrates Association

01:11:42 Randy Hood, Chief Public Defender

Questions from Committee Members and Responses:

01:12:20 Rep. Schmidt

01:12:37 Ms. Hood

01:12:42 Rep. Schmidt

01:12:50 Ms. Hood

Closing by Sponsor:

01:13:13 Sen. Shockley

HEARING ON SB 423

Opening Statement by Sponsor:

01:16:48 Sen. Jeff Essmann (R), SD 28, opened the hearing on SB 423, Generally revise laws relating to use of marijuana.

Proponents' Testimony: None

Opponents' Testimony:

01:21:15 Tom Daubert, Patients and Families United

01:27:11 Kate Cholewa, The Alliance for Cannabis Science

Informational Testimony: None

Questions from Committee Members and Responses:

01:31:00 Rep. Gibson

01:31:26 Sen. Essmann

01:31:45 Rep. Gibson

01:32:14 Sen. Essmann

01:32:41 Rep. Gibson

01:32:56 Sen. Essmann

01:34:24 Rep. Beck

01:35:14 Sen. Essmann

01:35:47 Chairman McNutt
 01:35:53 Sen. Essmann
 01:36:20 Chairman McNutt
 01:36:32 Sen. Essmann

Closing by Sponsor:

01:37:08 Sen. Essmann

 01:37:29 Chairman McNutt
 01:38:31 Recessed
 02:13:44 Resumed with all members present.

EXECUTIVE ACTION ON SB 423

02:14:10 **Motion:** Rep. Esp moved that **SB 423 BE CONCURRED IN.**

Discussion:

02:14:20 Rep. Esp

02:14:36 **Vote:** Motion carried unanimously by voice vote. Rep. Smith will carry the bill.

EXECUTIVE ACTION ON SB 409

02:15:02 **Motion/Vote:** Rep. Esp moved that **SB 409 BE CONCURRED IN.** Motion carried 12-9 by roll call vote with Rep. Belcourt, Rep. Esp, Rep. Hiner, Rep. Hollenbaugh, Rep. McChesney, Rep. Mehlhoff, Rep. Roberts, Rep. Schmidt and Rep. Sesso voting no. Rep. G. Bennett will carry the bill.

EXECUTIVE ACTION ON SB 371

02:16:41 **Motion/Vote:** Rep. Esp moved that **SB 371 BE CONCURRED IN.** Motion carried 11-10 by roll call vote with Rep. Ankney, Rep. Belcourt, Rep. Burnett, Rep. Gibson, Rep. Hiner, Rep. Hollenbaugh, Rep. McChesney, Rep. Roberts, Rep. Schmidt and Rep. Sesso voting no. Rep. Knudsen will carry the bill.

EXECUTIVE ACTION ON SB 187

02:18:05 **Motion:** Rep. Esp moved that **SB 187 BE CONCURRED IN.**

Discussion:

02:18:15 Rep. Esp
 02:18:16 Chairman McNutt
 02:18:20 Mr. Moe
 02:18:27 Rep. Esp
 02:18:39 Chairman McNutt

HOUSE OF REPRESENTATIVES
Roll Call
APPROPRIATIONS COMMITTEE

DATE: 4/8/11

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. BILL BECK, VICE CHAIR	✓	
REP. CYNTHIA HINER, VICE CHAIR	✓	
REP. DUANE ANKNEY	✓	
REP. TONY BELCOURT	✓	
REP. RANDY BRODEHL	✓	
REP. TOM BURNETT	✓	
REP. ROB COOK	✓	
REP. MIKE CUFFE	✓	
REP. CHAMP EDMUNDS	✓	
REP. RON EHLI	✓	
REP. JOHN ESP	✓	
REP. STEVE GIBSON	✓	
REP. ROY HOLLANDSWORTH	✓	
REP. GALEN HOLLENBAUGH	.	✓
REP. BILL MCCHESENEY	.	✓
REP. ROBERT MEHLHOFF	✓	.
REP. RYAN OSMUNDSON	✓	
REP. DON ROBERTS	✓	
REP. TRUDI SCHMIDT	✓	
REP. JON SESSO		✓
REP. WALTER MCNUTT, CHAIR	✓	

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION**

HOUSE APPROPRIATIONS COMMITTEE

Date: Friday, April 8, 2011
Place: Capitol

Time: 8:00 AM
Room: 102

BILLS and RESOLUTIONS HEARD:

SB 187 - Generally revise public defender laws
SB 253 - Eliminate certain individual and corporation tax credits
SB 295 - Revise manner of appraising certain property for tax purposes
SB 371 - Encourage manufacture of ammunition in Montana to ensure availability
SB 372 - Lower business equipment tax – phase more reduction on state economic growth
SB 409 - Revise methods to establish rental fees and sale of state land cabin sites
SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

SB 423: Be Concurred in
SB 409: Be Concurred in
SB 371: Be Concurred in
SB 187: Be Concurred in

Comments:



REP. Walter McNutt, Chair



HOUSE STANDING COMMITTEE REPORT

April 8, 2011
Page 1 of 1

Mr. Speaker:

We, your committee on **Appropriations** recommend that **Senate Bill 423** (third reading copy -- blue) be concurred in.

Signed: *Walter McNutt*
Representative Walter McNutt, Chair

To be carried by Representative Cary Smith

- END -

Committee Vote:
Yes 21, No 0
Fiscal Note Required ☐

SB0423002SC06483.hgh

*for
4/8/11
12:15*

1 SENATE BILL NO. 423

2 INTRODUCED BY J. ESSMANN

3 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
6 AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING
7 REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER
8 OF MARIJUANA ~~FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS~~; PROVIDING DEFINITIONS;
9 PROVIDING RULEMAKING AUTHORITY; ~~CREATING A SPECIAL REVENUE ACCOUNT~~; ESTABLISHING A
10 TRANSITION PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216,~~
11 ~~45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202,~~
12 ~~45-9-203, AND 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING SECTIONS 50-46-101, 50-46-102,~~
13 ~~50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING~~
14 EFFECTIVE DATES."

15
16 WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A
17 CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR
18 DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND

19 WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND

20 WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE
21 OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED
22 SUBSTANCES ACT.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 (Refer to Third Reading -- Blue Bill)

26 Strike everything after the enacting clause and insert:

27
28 NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 17] may be cited as the
29 "Montana Marijuana Act".

30 (2) The purpose of [sections 1 through 17] is to:

1 (a) provide legal protections to persons with debilitating medical conditions who engage in the use of
2 marijuana to alleviate the symptoms of the debilitating medical condition;

3 (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
4 [sections 1 through 17] by persons who obtain registry identification cards; and

5 (c) give local governments a role in establishing standards for the cultivation, manufacture, and use of
6 marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

7
8 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 17], the following definitions
9 apply:

10 (1) "Debilitating medical condition" means a medical condition determined by a physician to be
11 debilitating for the person diagnosed with the condition.

12 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

13 (3) "Local government" means a county, a consolidated government, or an incorporated city or town.

14 (4) "Marijuana" has the meaning provided in 50-32-101.

15 (5) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

16 (6) "Paraphernalia" has the meaning provided in 45-10-101.

17 (7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office
18 located in Montana.

19 (8)(a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department
20 to cultivate, manufacture, possess, or transport marijuana for use by a registered cardholder.

21 (b) The term does not include the cardholder's physician.

22 (9) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
23 condition who has received and maintains a valid registry identification card.

24 (10) "Registry identification card" means a document issued by the department pursuant to [section 3]
25 that identifies a person as a registered cardholder or provider.

26 (11) (a) "Resident" means an individual who meets the requirements of 1-1-215.

27 (b) An individual is not considered a resident for the purposes of [sections 1 through 17] if the individual:

28 (i) claims residence in another state or country for any purpose; or

29 (ii) is an absentee property owner paying property tax on property in Montana.

30 (12) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12

1 inches in diameter.

2 (13) "Standard of care" means the standard established by rule by the board of medical examiners.

3 (14) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures
4 or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a
5 debilitating medical condition.

6 (b) The term does not include the seeds, stalks, and roots of the plant.

7 (15) "Written certification" means a statement signed by a treating physician that meets the requirements
8 of [section 6] and is provided in a manner that meets the standard of care.

9

10 **NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality --**

11 **reports.**(1) (a) The department shall establish and maintain a program for the issuance of registry identification
12 cards to Montana residents who:

13 (i) have debilitating medical conditions and who submit applications meeting the requirements of [sections
14 1 through 17]; and

15 (ii) are named as providers by persons who obtain registry identification cards for their debilitating medical
16 conditions.

17 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
18 and transport marijuana as allowed by [sections 1 through 17].

19 (2) The department shall conduct criminal history background checks as required by [sections 4 and 5]
20 before issuing a registry identification card for a person named as a provider.

21 (3) Registry identification cards issued pursuant to [sections 1 through 17] must:

22 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
23 which the card is valid;

24 (b) state the name, address, and date of birth of the registered cardholder and of the cardholder's
25 provider, if any;

26 (c) state the date of issuance and the expiration date of the registry identification card;

27 (d) contain a unique identification number;

28 (e) easily identify whether the card is for a person with a debilitating medical condition or for a provider;
29 and

30 (f) contain other information that the department may specify by rule.

1 (4) (a) The department shall verify the information contained in an application or renewal submitted
2 pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of
3 receiving the application or renewal and all related application materials.

4 (b) The department shall issue a registry identification card within 15 days of approving an application
5 or renewal.

6 (5) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder
7 changes providers. A provider's registry identification card expires at the time the department issues a card to
8 a new provider named by a registered cardholder.

9 (6) A registered cardholder shall notify the department of any change in the cardholder's name, address,
10 physician, or provider or change in the status of the cardholder's debilitating medical condition within 10 days of
11 the change. If a change occurs and is not reported to the department, the registry identification card is void.

12 (7) The department shall maintain a confidential list of persons to whom the department has issued
13 registry identification cards. Except as provided in subsection (8), individual names and other identifying
14 information on the list must be confidential and are not subject to disclosure, except to:

15 (a) authorized employees of the department as necessary to perform the official duties of the department;
16 and

17 (b) authorized employees of state or local government agencies, including law enforcement agencies,
18 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

19 (8) The department shall provide the names of registered cardholders and providers to the local law
20 enforcement agency having jurisdiction in the area in which the cardholders or providers live. The law
21 enforcement agency and its employees are subject to the confidentiality requirements of [section 14].

22 (9) (a) The department shall provide the board of medical examiners with the name of any physician who
23 provides written certification for 15 or more patients within a 12-month period. The board of medical examiners
24 shall review the physician's practices in order to determine whether the practices meet the standard of care.

25 (b) The physician whose practices are under review shall pay the costs of the board's review activities.

26 (10) The department shall report biannually to the legislature the number of applications for registry
27 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
28 conditions of the cardholders, the number of providers approved, the number of registry identification cards
29 revoked, the number of physicians providing written certification for registered cardholders, and the number of
30 written certifications each physician has provided. The report may not provide any identifying information of

1 cardholders or physicians.

2

3 **NEWSECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors**
4 **-- limitations.** (1) Except as provided in subsections (2) and (3), the department shall issue a registry
5 identification card to a person with a debilitating medical condition who submits the following, in accordance with
6 department rules:

7 (a) an application on a form prescribed by the department;

8 (b) an application fee or a renewal fee;

9 (c) the person's name, street address, and date of birth;

10 (d) proof of Montana residency;

11 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
12 will be obtaining marijuana from a provider;

13 (f) the name of the person's treating physician and the street address and telephone number of the
14 physician's office;

15 (g) the street address where the person is cultivating or manufacturing marijuana if the person is
16 cultivating or manufacturing marijuana for the person's own use;

17 (h) the name, date of birth, and street address of the individual the person has selected as a provider,
18 if any; and

19 (i) a statement from the person's treating physician as required pursuant to [section 6].

20 (2) The department shall issue a registry identification card to a minor if the materials required under
21 subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
22 decisions signs and submits a written statement that:

23 (a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian
24 with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

25 (b) the minor's custodial parent or legal guardian with responsibility for health care decisions:

26 (i) consents to the use of marijuana by the minor;

27 (ii) agrees to serve as the minor's provider;

28 (iii) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana
29 by the minor; and

30 (iv) undergoes a name-based background check. The parent or legal guardian shall pay the costs of the

1 background check.

2 (3) A person may not be a registered cardholder if the person is in the custody of or under the supervision
3 of the department of corrections or a youth court.

4 (4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or
5 manufacture marijuana for the cardholder's use.

6 (5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

7 (a) at a property that is owned by the cardholder; or

8 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

9 (6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
10 cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property
11 is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by
12 blood or marriage.

13
14 **NEW SECTION. Section 5. Providers -- requirements -- limitations.** (1) The department shall issue
15 a registry identification card to the person who is named as a provider in a registered cardholder's approved
16 application if the person submits to the department:

17 (a) the person's name, date of birth, and street address on a form prescribed by the department;

18 (b) proof that the person is a Montana resident;

19 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the
20 federal bureau of investigation;

21 (d) a written agreement signed by the registered cardholder;

22 (e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered
23 cardholder at a property owned, rented, or leased by the cardholder or by the person; and

24 (f) a fee as determined by the department to cover the costs of the fingerprint and background check and
25 associated administrative costs of processing the registration.

26 (2) The department may not register a person as a provider if the person:

27 (a) has a felony conviction or a conviction for a drug offense;

28 (b) is in the custody of or under the supervision of the department of corrections or a youth court;

29 (c) has failed to:

30 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

1 (ii) stay out of default on a government-issued student loan;

2 (iii) pay child support; or

3 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
4 agency.

5 (3) A provider may assist only one registered cardholder unless the provider is simultaneously caring for
6 up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship
7 by blood or marriage.

8 (4) Marijuana for use pursuant to [sections 1 through 17] must be cultivated and manufactured in
9 Montana.

10 (5) A provider may not:

11 (a) accept compensation for any services or products provided to a registered cardholder;

12 (b) use marijuana; or

13 (c) be a registered cardholder.

14 (6) (a) A provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

15 (i) a property that is owned by the provider;

16 (ii) with written permission of the landlord, a property that is rented or leased by the provider; or

17 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section
18 4].

19 (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or
20 rented or leased to another provider or another registered cardholder.

21
22 **NEW SECTION. Section 6. Physician statement.** (1) The written certification provided by a physician
23 must:

24 (a) confirm that the physician is the person's treating physician and that the person has been under the
25 physician's medical care and supervision;

26 (b) confirm that the person suffers from a debilitating medical condition;

27 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which
28 it is debilitating;

29 (d) describe the medications, procedures, and other medical options used to treat the condition;

30 (e) state that the medications, procedures, or other medical options have not been effective;

(f) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(g) list restrictions on the person's activities due to the use of marijuana;

(h) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; and

(i) state that the physician will:

(i) continue to serve as the person's treating physician; and

(ii) supervise the person's use of marijuana and evaluate the efficacy of the treatment.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

NEW SECTION. Section 7. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder or provider shall keep the cardholder's or provider's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 8. Health care facility procedures for patients with marijuana for use. (1) Except for hospices that allow the use of marijuana as provided in [section 10], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. Section 9. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 17].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 17].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card

1 or otherwise subject the individual or property of the individual possessing or applying for the card to inspection
2 by any governmental agency, including a law enforcement agency.

3 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
4 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal
5 charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an
6 arrest or the filing of a criminal charge.

7
8 **NEW SECTION. Section 10. Limitations of the act.** (1) [Sections 1 through 17] do not permit:

9 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
10 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

11 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

12 (i) in a health care facility as defined in 50-5-101;

13 (ii) in a school or a postsecondary school as defined in 20-5-402;

14 (iii) on or in any property owned by a school district or a postsecondary school;

15 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
16 used for school-related purposes;

17 (v) in a school bus or other form of public transportation;

18 (vi) in a correctional facility;

19 (vii) at a public park, public beach, public recreation center, or youth center;

20 (viii) in or on the property of any church, synagogue, or other place of worship;

21 (ix) in plain view of or in a place open to the general public; or

22 (x) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
23 of children.

24 (2) A registered cardholder or a provider may not cultivate or manufacture marijuana for use by a
25 registered cardholder in a manner that is visible from the street or other public area.

26 (3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a
27 registered cardholder.

28 (4) Nothing in [sections 1 through 17] may be construed to require:

29 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
30 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to

1 reimburse a person for costs associated with the use of marijuana by a person with a debilitating medical
2 condition;

3 (b) an employer to accommodate the use of marijuana by a registered cardholder;

4 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
5 activities; or

6 (d) a landlord to allow a tenant who is a registered cardholder or a provider to cultivate or manufacture
7 marijuana or to allow a registered cardholder to use marijuana.

8 (5) Nothing in [sections 1 through 17] may be construed to:

9 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a
10 debilitating medical condition; or

11 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
12 discrimination pursuant to 49-1-102.

13 (6) Nothing in [sections 1 through 17] may be construed to allow a provider to use marijuana or to prevent
14 criminal prosecution of a provider who uses marijuana or paraphernalia for personal use.

15 (7) (a) A law enforcement officer who has reasonable cause to believe that a registered cardholder or
16 provider is driving under the influence of marijuana may apply for a search warrant to require the person to
17 provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a
18 tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

19 (b) A registered cardholder or provider who violates subsection (1)(a) is subject to revocation of the
20 person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving
21 under the influence of alcohol or drugs when the initial offense with which the individual was charged was a
22 violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension
23 or revocation set forth:

24 (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

25 (ii) in 61-8-410 for a violation of 61-8-410.

26 (c) If a person's registry identification card is subject to renewal during the revocation period, the person
27 may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person
28 submits all materials required for renewal.

29
30 **NEW SECTION. Section 11. Local government authority to regulate.** To protect the public health,

1 safety, or welfare, a local government may by ordinance or resolution regulate a provider that operates within the
2 local government's jurisdictional area. The regulations may include but are not limited to inspections of locations
3 where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and
4 welfare requirements established by the department or the local government.

5
6 **NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties.** (1) The department shall
7 revoke and may not reissue the registry identification card of a person who:

8 (a) is convicted of a drug offense; or

9 (b) allows another person to be in possession of the cardholder's:

10 (i) registry identification card; or

11 (ii) marijuana plants or usable marijuana.

12 (2) A registered cardholder or a provider who violates [sections 1 through 17] is punishable by a fine not
13 to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise
14 provided in [sections 1 through 17] or unless the violation would constitute a violation of Title 45. An offense
15 constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

16
17 **NEW SECTION. Section 13. Fraudulent representation -- penalties.** (1) In addition to any other
18 penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is
19 a registered cardholder or a provider is guilty of a felony punishable by imprisonment in the state prison for not
20 less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both.

21 (2) A physician who purposely and knowingly misrepresents any information required under [section 6]
22 is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5
23 years or a fine not to exceed \$50,000, or both.

24
25 **NEW SECTION. Section 14. Confidentiality of registry information -- penalty.** (1) A person,
26 including an employee or official of the department of public health and human services, commits the offense of
27 disclosure of confidential information related to registry information if the person knowingly or purposely discloses
28 confidential information in violation of [sections 1 through 17].

29 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in
30 the county jail for a term not to exceed 6 months, or both.

1

2 **NEW SECTION.** **Section 15. Law enforcement authority.** Nothing in this chapter may be construed
3 to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating
4 medical condition or the person's provider.

5

6 **NEW SECTION.** **Section 16. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
7 property seized by a law enforcement official from a person claiming the protections of [sections 1 through 17]
8 in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must
9 be returned to the person immediately upon a determination that the person is in compliance with the provisions
10 of [sections 1 through 17].

11 (2) A law enforcement agency in possession of marijuana plants seized as evidence is not responsible
12 for the care and maintenance of the plants.

13

14 **NEW SECTION.** **Section 17. Rulemaking authority -- fees.** (1) The department shall adopt rules
15 necessary for the implementation and administration of [sections 1 through 17]. The rules must include but are
16 not limited to:

17 (a) the manner in which the department will consider applications for registry identification cards for
18 providers and for persons with debilitating medical conditions and renewal of registry identification cards for
19 providers and registered cardholders;

20 (b) the acceptable forms of proof of Montana residency;

21 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
22 [section 5]; and

23 (d) other rules necessary to implement the purposes of [sections 1 through 17].

24 (2) The department's rules must establish application and renewal fees that generate revenue sufficient
25 to offset all expenses of implementing and administering [sections 1 through 17].

26

27 **Section 18.** Section 37-1-316, MCA, is amended to read:

28 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
29 applicant governed by this part:

30 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or

1 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
2 theft, whether or not an appeal is pending;

3 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
4 licensure or certification;

5 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
6 securing a license or license renewal or in taking an examination required for licensure;

7 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
8 knows or reasonably ought to know contains a false or misleading statement;

9 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
10 the profession or occupation;

11 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
12 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
13 law, rule, or ordinance governing the licensee's profession or occupation;

14 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
15 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
16 on appeal, under judicial review, or has been satisfied;

17 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

18 (9) revealing confidential information obtained as the result of a professional relationship without the prior
19 consent of the recipient of services, except as authorized or required by law;

20 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
21 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

22 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
23 the profession or occupation with reasonable skill and safety;

24 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
25 disease involving serious risk to public health or without taking adequate precautions, including but not limited
26 to informed consent, protective gear, or cessation of practice;

27 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
28 regarding the accounting and distribution of a client's property or funds;

29 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
30 the use of threats or harassment against or inducement to a client or witness to prevent them from providing

1 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
2 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
3 filed, prosecuted, or completed;

4 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
5 organization to practice or offer to practice by use of the licensee's license;

6 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
7 appeal, against the licensee or of an action against the licensee by a:

8 (a) peer review committee;

9 (b) professional association; or

10 (c) local, state, federal, territorial, provincial, or Indian tribal government;

11 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
12 implementing 28-10-103(3)(a);

13 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
14 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
15 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
16 to prove conduct that does not meet generally accepted standards;

17 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
18 for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through
19 17]."

20
21 **Section 19.** Section 37-3-343, MCA, is amended to read:

22 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
23 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
24 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

25 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
26 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
27 to become board-certified and on which the physician bases the physician's application for a telemedicine license
28 pursuant to 37-3-345(2).

29 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
30 telemedicine license does not authorize the physician to engage in the practice of medicine while physically

1 present within the state.

2 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
3 for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through
4 17].

5 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
6 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
7 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
8 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."
9

10 **Section 20.** Section 37-3-347, MCA, is amended to read:

11 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
12 deny an application for a telemedicine license if the applicant:

13 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
14 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

15 (b) plans to use telemedicine as a means to obtain the information required for the written certification
16 that is used to apply for a registry identification card pursuant to [sections 1 through 17];

17 ~~(b)~~(c) fails to pay a required fee;

18 ~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

19 ~~(d)~~(e) has committed unprofessional conduct.

20 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
21 apply for a physician's license in order to practice medicine in Montana."
22

23 **Section 21.** Section 41-5-216, MCA, is amended to read:

24 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
25 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
26 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
27 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
28 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
29 extended jurisdiction.

30 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section

1 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
2 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
3 court.

4 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
5 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

6 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
7 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
8 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
9 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
10 offender pursuant to Title 46, chapter 23, part 5.

11 (5) After formal youth court records, law enforcement records, and department records are sealed, they
12 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
13 a new offense, to:

14 (a) those persons and agencies listed in 41-5-215(2); and

15 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
16 age of majority.

17 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
18 under subsection (1), the electronic records of the management information system maintained by the department
19 of public health and human services and by the department relating to the youth whose records are being sealed
20 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

21 (b) The department of public health and human services and the department shall disassociate the
22 offense and disposition information from the name of the youth in the respective management information system.
23 The offense and disposition information must be maintained separately and may be used only:

24 (i) for research and program evaluation authorized by the department of public health and human
25 services or by the department and subject to any applicable laws; and

26 (ii) as provided in Title 5, chapter 13.

27 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
28 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
29 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
30 only pursuant to subsection (5).

1 (b) The informal youth court records may be maintained and inspected only by youth court personnel
2 upon a new offense prior to the youth's 18th birthday.

3 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
4 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
5 in hard-copy form must be destroyed and any electronic records in the youth court management information
6 system must disassociate the offense and disposition information from the name of the youth and may be used
7 only for the following purposes:

8 (i) for research and program evaluation authorized by the office of the court administrator and subject
9 to any applicable laws; and

10 (ii) as provided in Title 5, chapter 13.

11 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
12 court records within the juvenile probation management information system. Electronic records of the youth court
13 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
14 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
15 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
16 as provided in subsection (2) of this section.

17 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
18 court records within the department's youth management information system. Electronic records of the
19 department's youth management information system may not be shared except as provided in subsection (5).
20 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
21 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
22 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

23 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
24 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
25 of a youth within the facility.

26 (11) This section does not prohibit access to formal or informal youth court records, including electronic
27 records, for purposes of conducting evaluations as required by 41-5-2003.

28 (12) This section does not prohibit the office of court administrator, upon written request from the
29 department of public health and human services, from confirming whether a person applying for a registry
30 identification card pursuant to [section 4 or 5] is currently under youth court supervision."

1
2 **Section 22.** Section 45-9-203, MCA, is amended to read:

3 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
4 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
5 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
6 to the department for issuance of a probationary license under 61-2-302.

7 (2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an
8 offense under this chapter, the court shall:

9 (a) at the time of sentencing, require the person to surrender the registry identification card; and

10 (b) notify the department of public health and human services of the conviction in order for the department
11 to carry out its duties under [section 12]."

12
13 **Section 23.** Section 61-11-101, MCA, is amended to read:

14 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
15 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
16 the suspension or revocation of the driver's license or commercial driver's license of the person by the
17 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
18 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
19 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
20 indicate that fact in its report to the department.

21 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
22 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
23 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
24 the conviction becomes final. The court may recommend that the department issue a restricted probationary
25 license on the condition that the individual comply with the requirement that the person attend and complete a
26 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

27 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
28 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
29 upon which it is based to the department within 5 days on forms furnished by the department.

30 (4) A conviction becomes final for the purposes of this part upon the later of:

- 1 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;
2 (b) forfeiture of bail that is not vacated; or
3 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
4 execution of a sentence.

5 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
6 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
7 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
8 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
9 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
10 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
11 person who holds any other type of driver's license.

12 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
13 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
14 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
15 subsection (1).

16 (6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is
17 convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the
18 initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court
19 in which the conviction occurs shall require the person to surrender the registry identification card.

20 (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card
21 and a copy of the conviction to the department of public health and human services."

22

23 **NEW SECTION. Section 24. Repealer.** The following sections of the Montana Code Annotated are
24 repealed:

25 50-46-101. Short title.

26 50-46-102. Definitions.

27 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

28 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

29 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

30 50-46-205. Limitations of Medical Marijuana Act.

1 50-46-206. Affirmative defense.

2 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

3 50-46-210. Rulemaking -- fees.

4

5 **NEW SECTION.** **Section 25. Transition.** (1) Registry identification cards issued to persons with
6 debilitating medical conditions prior to [the effective date of this act] are valid until the expiration date listed on
7 the card.

8 (2) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July
9 1, 2011, may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or
10 marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items to the law
11 enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the
12 items.

13

14 **NEW SECTION.** **Section 26. Codification instruction.** [Sections 1 through 17] are intended to be
15 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
16 1 through 17].

17

18 **COORDINATION SECTION.** **Section 27. Coordination instruction.** (1) If both House Bill No. 161 and
19 [this act] are passed and approved, then [this act] is void.

20 (2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101,
21 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill
22 No. 175 is void.

23

24 **NEW SECTION.** **Section 28. Instructions to code commissioner.** (1) Wherever a reference to
25 "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code
26 commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

27 (2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the
28 reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

29 (3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the
30 reference must be replaced with a reference to [section 7 of Senate Bill No. 423].

1

2 NEW SECTION. **Section 29. Severability.** If a part of [this act] is invalid, all valid parts that are
3 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
4 the part remains in effect in all valid applications that are severable from the invalid applications.

5

6 NEW SECTION. **Section 30. Effective date.** [This act] is effective July 1, 2011.

7

- END -

SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A ~~SYSTEM OF LICENSING~~ REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA ~~FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS~~; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ~~CREATING A SPECIAL REVENUE ACCOUNT~~; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, 45-9-203, AND 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING~~ EFFECTIVE DATES."

WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND

WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND

WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading -- Blue Bill) 3 | 30

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 17] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 17] is to:

1 (a) provide legal protections to persons with debilitating medical conditions who engage in the use of
2 marijuana to alleviate the symptoms of the debilitating medical condition;

3 (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
4 [sections 1 through 17] by persons who obtain registry identification cards; and

5 (c) give local governments a role in establishing standards for the cultivation, manufacture, and use of
6 marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

7
8 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 17], the following definitions
9 apply:

10 (1) "Debilitating medical condition" means a medical condition determined by a physician to be
11 debilitating for the person diagnosed with the condition.

12 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

13 (3) "Local government" means a county, a consolidated government, or an incorporated city or town.

14 (4) "Marijuana" has the meaning provided in 50-32-101.

15 (5) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

16 (6) "Paraphernalia" has the meaning provided in 45-10-101.

17 (7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office
18 located in Montana.

19 (8) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the
20 department to cultivate, manufacture, possess, or transport marijuana for use by a registered cardholder.

21 (b) The term does not include the cardholder's physician.

22 (9) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
23 condition who has received and maintains a valid registry identification card.

24 (10) "Registry identification card" means a document issued by the department pursuant to [section 3]
25 that identifies a person as a registered cardholder or provider.

26 (11) (a) "Resident" means an individual who meets the requirements of 1-1-215.

27 (b) An individual is not considered a resident for the purposes of [sections 1 through 17] if the individual:

28 (i) claims residence in another state or country for any purpose; or

29 (ii) is an absentee property owner paying property tax on property in Montana.

30 (12) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12

1 inches in diameter.

2 (13) "Standard of care" means the standard established by rule by the board of medical examiners.

3 (14) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures
4 or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a
5 debilitating medical condition.

6 (b) The term does not include the seeds, stalks, and roots of the plant.

7 (15) "Written certification" means a statement signed by a treating physician that meets the requirements
8 of [section 6] and is provided in a manner that meets the standard of care.

9
10 **NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality --**
11 **reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry identification
12 cards to Montana residents who:

13 (i) have debilitating medical conditions and who submit applications meeting the requirements of
14 [sections 1 through 17]; and

15 (ii) are named as providers by persons who obtain registry identification cards for their debilitating medical
16 conditions.

17 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
18 and transport marijuana as allowed by [sections 1 through 17].

19 (2) The department shall conduct criminal history background checks as required by [sections 4 and 5]
20 before issuing a registry identification card for a person named as a provider.

21 (3) Registry identification cards issued pursuant to [sections 1 through 17] must:

22 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
23 which the card is valid;

24 (b) state the name, address, and date of birth of the registered cardholder and of the cardholder's
25 provider, if any;

26 (c) state the date of issuance and the expiration date of the registry identification card;

27 (d) contain a unique identification number;

28 (e) easily identify whether the card is for a person with a debilitating medical condition or for a provider;

29 and

30 (f) contain other information that the department may specify by rule.

1 (4) (a) The department shall verify the information contained in an application or renewal submitted
2 pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of
3 receiving the application or renewal and all related application materials.

4 (b) The department shall issue a registry identification card within 15 days of approving an application
5 or renewal.

6 (5) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder
7 changes providers. A provider's registry identification card expires at the time the department issues a card to
8 a new provider named by a registered cardholder.

9 (6) A registered cardholder shall notify the department of any change in the cardholder's name, address,
10 physician, or provider or change in the status of the cardholder's debilitating medical condition within 10 days of
11 the change. If a change occurs and is not reported to the department, the registry identification card is void.

12 (7) The department shall maintain a confidential list of persons to whom the department has issued
13 registry identification cards. Except as provided in subsection (8), individual names and other identifying
14 information on the list must be confidential and are not subject to disclosure, except to:

15 (a) authorized employees of the department as necessary to perform the official duties of the department;
16 and

17 (b) authorized employees of state or local government agencies, including law enforcement agencies,
18 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

19 (8) The department shall provide the names of registered cardholders and providers to the local law
20 enforcement agency having jurisdiction in the area in which the cardholders or providers live. The law
21 enforcement agency and its employees are subject to the confidentiality requirements of [section 14].

22 (9) (a) The department shall provide the board of medical examiners with the name of any physician who
23 provides written certification for 15 or more patients within a 12-month period. The board of medical examiners
24 shall review the physician's practices in order to determine whether the practices meet the standard of care.

25 (b) The physician whose practices are under review shall pay the costs of the board's review activities.

26 (10) The department shall report biannually to the legislature the number of applications for registry
27 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
28 conditions of the cardholders, the number of providers approved, the number of registry identification cards
29 revoked, the number of physicians providing written certification for registered cardholders, and the number of
30 written certifications each physician has provided. The report may not provide any identifying information of

1 cardholders or physicians.

2
3 **NEWSECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors**
4 **-- limitations.** (1) Except as provided in subsections (2) and (3), the department shall issue a registry
5 identification card to a person with a debilitating medical condition who submits the following, in accordance with
6 department rules:

- 7 (a) an application on a form prescribed by the department;
- 8 (b) an application fee or a renewal fee;
- 9 (c) the person's name, street address, and date of birth;
- 10 (d) proof of Montana residency;
- 11 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
12 will be obtaining marijuana from a provider;
- 13 (f) the name of the person's treating physician and the street address and telephone number of the
14 physician's office;
- 15 (g) the street address where the person is cultivating or manufacturing marijuana if the person is
16 cultivating or manufacturing marijuana for the person's own use;
- 17 (h) the name, date of birth, and street address of the individual the person has selected as a provider,
18 if any; and
- 19 (i) a statement from the person's treating physician as required pursuant to [section 6].

20 (2) The department shall issue a registry identification card to a minor if the materials required under
21 subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
22 decisions signs and submits a written statement that:

- 23 (a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian
24 with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and
- 25 (b) the minor's custodial parent or legal guardian with responsibility for health care decisions:
- 26 (i) consents to the use of marijuana by the minor;
- 27 (ii) agrees to serve as the minor's provider;
- 28 (iii) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana
29 by the minor; and
- 30 (iv) undergoes a name-based background check. The parent or legal guardian shall pay the costs of the

1 background check.

2 (3) A person may not be a registered cardholder if the person is in the custody of or under the
3 supervision of the department of corrections ~~or~~, a youth court, A DISTRICT COURT, OR A COURT OF LIMITED
4 JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL
5 SUPERVISION OR ENFORCEMENT PROGRAM.

6 (4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or
7 manufacture marijuana for the cardholder's use.

8 (5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

9 (a) at a property that is owned by the cardholder; or

10 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

11 (6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
12 cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property
13 is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by
14 blood or marriage.

15
16 **NEW SECTION. Section 5. Providers -- requirements -- limitations.** (1) The department shall issue
17 a registry identification card to the person who is named as a provider in a registered cardholder's approved
18 application if the person submits to the department:

19 (a) the person's name, date of birth, and street address on a form prescribed by the department;

20 (b) proof that the person is a Montana resident;

21 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the
22 federal bureau of investigation;

23 (d) a written agreement signed by the registered cardholder;

24 (e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered
25 cardholder at a property owned, rented, or leased by the cardholder or by the person; and

26 (f) a fee as determined by the department to cover the costs of the fingerprint and background check and
27 associated administrative costs of processing the registration.

28 (2) The department may not register a person as a provider if the person:

29 (a) has a felony conviction or a conviction for a drug offense;

30 (b) is in the custody of or under the supervision of the department of corrections or a youth court, A

DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM;

(c) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency.

(3) A provider may assist only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage.

(4) Marijuana for use pursuant to [sections 1 through 17] must be cultivated and manufactured in Montana.

(5) A provider may not:

(a) accept compensation for any services or products provided to a registered cardholder;

(b) use marijuana; or

(c) be a registered cardholder.

(6) (a) A provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

(i) a property that is owned by the provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or another registered cardholder.

NEW SECTION. Section 6. Physician statement. (1) The written certification provided by a physician must:

(a) confirm that the physician is the person's treating physician and that the person has been under the physician's medical care and supervision;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) describe the medications, procedures, and other medical options used to treat the condition;

(e) state that the medications, procedures, or other medical options have not been effective;

(f) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(g) list restrictions on the person's activities due to the use of marijuana;

(h) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; and

(i) state that the physician will:

(i) continue to serve as the person's treating physician; and

(ii) supervise the person's use of marijuana and evaluate the efficacy of the treatment.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

NEW SECTION. Section 7. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder or provider shall keep the cardholder's or provider's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 8. Health care facility procedures for patients with marijuana for use. (1) Except for hospices that allow the use of marijuana as provided in [section 10], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. Section 9. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 17].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 17].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity

1 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
2 a registered cardholder.

3 (6) Possession of or application for a registry identification card does not alone constitute probable cause
4 to search the individual or the property of the individual possessing or applying for the registry identification card
5 or otherwise subject the individual or property of the individual possessing or applying for the card to inspection
6 by any governmental agency, including a law enforcement agency.

7 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
8 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal
9 charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an
10 arrest or the filing of a criminal charge.

11
12 **NEW SECTION. Section 10. Limitations of the act.** (1) [Sections 1 through 17] do not permit:

13 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
14 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

15 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

16 (i) in a health care facility as defined in 50-5-101;

17 (ii) in a school or a postsecondary school as defined in 20-5-402;

18 (iii) on or in any property owned by a school district or a postsecondary school;

19 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
20 used for school-related purposes;

21 (v) in a school bus or other form of public transportation;

22 (vi) in a correctional facility, INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203;

23 (vii) at a public park, public beach, public recreation center, or youth center;

24 (viii) in or on the property of any church, synagogue, or other place of worship;

25 (ix) in plain view of or in a place open to the general public; ~~or~~

26 (x) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
27 of children; OR

28 (XI) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED
29 BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT
30 PROGRAM.

1 (2) A registered cardholder or a provider may not cultivate or manufacture marijuana for use by a
2 registered cardholder in a manner that is visible from the street or other public area.

3 (3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a
4 registered cardholder.

5 (4) Nothing in [sections 1 through 17] may be construed to require:

6 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
7 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
8 reimburse a person for costs associated with the use of marijuana by a person with a debilitating medical
9 condition;

10 (b) an employer to accommodate the use of marijuana by a registered cardholder;

11 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
12 activities; or

13 (d) a landlord to allow a tenant who is a registered cardholder or a provider to cultivate or manufacture
14 marijuana or to allow a registered cardholder to use marijuana.

15 (5) Nothing in [sections 1 through 17] may be construed to:

16 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
17 a debilitating medical condition; or

18 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
19 discrimination pursuant to 49-1-102.

20 (6) Nothing in [sections 1 through 17] may be construed to allow a provider to use marijuana or to
21 prevent criminal prosecution of a provider who uses marijuana or paraphernalia for personal use.

22 (7) (a) A law enforcement officer who has reasonable cause to believe that a registered cardholder or
23 provider is driving under the influence of marijuana may apply for a search warrant to require the person to
24 provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a
25 tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

26 (b) A registered cardholder or provider who violates subsection (1)(a) is subject to revocation of the
27 person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving
28 under the influence of alcohol or drugs when the initial offense with which the individual was charged was a
29 violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension
30 or revocation set forth:

1 (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

2 (ii) in 61-8-410 for a violation of 61-8-410.

3 (c) If a person's registry identification card is subject to renewal during the revocation period, the person
4 may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person
5 submits all materials required for renewal.

6
7 **NEW SECTION. Section 11. Local government authority to regulate.** To protect the public health,
8 safety, or welfare, a local government may by ordinance or resolution regulate a provider that operates within the
9 local government's jurisdictional area. The regulations may include but are not limited to inspections of locations
10 where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and
11 welfare requirements established by the department or the local government.

12
13 **NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties.** (1) The department shall
14 revoke and may not reissue the registry identification card of a person who:

15 (a) is convicted of a drug offense; or

16 (b) allows another person to be in possession of the cardholder's:

17 (i) registry identification card; or

18 (ii) marijuana plants or usable marijuana.

19 (2) A registered cardholder or a provider who violates [sections 1 through 17] is punishable by a fine not
20 to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise
21 provided in [sections 1 through 17] or unless the violation would constitute a violation of Title 45. An offense
22 constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

23
24 **NEW SECTION. Section 13. Fraudulent representation -- penalties.** (1) In addition to any other
25 penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is
26 a registered cardholder or a provider is guilty of a felony punishable by imprisonment in the state prison for not
27 less than 1 year or not more than 5 years or a fine not to exceed \$50,000, or both.

28 (2) A physician who purposely and knowingly misrepresents any information required under [section 6]
29 is guilty of a felony punishable by imprisonment in the state prison for not less than 1 year or not more than 5
30 years or a fine not to exceed \$50,000, or both.

1

2 **NEW SECTION.** **Section 14. Confidentiality of registry information -- penalty.** (1) A person,
3 including an employee or official of the department of public health and human services, commits the offense of
4 disclosure of confidential information related to registry information if the person knowingly or purposely discloses
5 confidential information in violation of [sections 1 through 17].

6 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
7 in the county jail for a term not to exceed 6 months, or both.

8

9 **NEW SECTION.** **Section 15. Law enforcement authority.** Nothing in this chapter may be construed
10 to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating
11 medical condition or the person's provider.

12

13 **NEW SECTION.** **Section 16. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
14 property seized by a law enforcement official from a person claiming the protections of [sections 1 through 17]
15 in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must
16 be returned to the person immediately upon a determination that the person is in compliance with the provisions
17 of [sections 1 through 17].

18 (2) A law enforcement agency in possession of marijuana plants seized as evidence is not responsible
19 for the care and maintenance of the plants.

20

21 **NEW SECTION.** **Section 17. Rulemaking authority -- fees.** (1) The department shall adopt rules
22 necessary for the implementation and administration of [sections 1 through 17]. The rules must include but are
23 not limited to:

24 (a) the manner in which the department will consider applications for registry identification cards for
25 providers and for persons with debilitating medical conditions and renewal of registry identification cards for
26 providers and registered cardholders;

27 (b) the acceptable forms of proof of Montana residency;

28 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
29 [section 5]; and

30 (d) other rules necessary to implement the purposes of [sections 1 through 17].

1 (2) The department's rules must establish application and renewal fees that generate revenue sufficient
2 to offset all expenses of implementing and administering [sections 1 through 17].
3

4 **Section 18.** Section 37-1-316, MCA, is amended to read:

5 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
6 applicant governed by this part:

7 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
8 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
9 theft, whether or not an appeal is pending;

10 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
11 licensure or certification;

12 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
13 securing a license or license renewal or in taking an examination required for licensure;

14 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
15 knows or reasonably ought to know contains a false or misleading statement;

16 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
17 the profession or occupation;

18 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
19 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
20 law, rule, or ordinance governing the licensee's profession or occupation;

21 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
22 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
23 on appeal, under judicial review, or has been satisfied;

24 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

25 (9) revealing confidential information obtained as the result of a professional relationship without the prior
26 consent of the recipient of services, except as authorized or required by law;

27 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
28 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

29 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
30 the profession or occupation with reasonable skill and safety;

1 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
2 disease involving serious risk to public health or without taking adequate precautions, including but not limited
3 to informed consent, protective gear, or cessation of practice;

4 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
5 regarding the accounting and distribution of a client's property or funds;

6 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
7 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
8 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
9 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
10 filed, prosecuted, or completed;

11 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
12 organization to practice or offer to practice by use of the licensee's license;

13 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
14 appeal, against the licensee or of an action against the licensee by a:

15 (a) peer review committee;

16 (b) professional association; or

17 (c) local, state, federal, territorial, provincial, or Indian tribal government;

18 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
19 implementing 28-10-103(3)(a);

20 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
21 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
22 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
23 to prove conduct that does not meet generally accepted standards;

24 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
25 for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through
26 17]."

27
28 **Section 19.** Section 37-3-343, MCA, is amended to read:

29 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
30 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license

1 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

2 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
3 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
4 to become board-certified and on which the physician bases the physician's application for a telemedicine license
5 pursuant to 37-3-345(2).

6 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
7 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
8 present within the state.

9 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
10 for the written certification that is used to apply for a registry identification card pursuant to [sections 1 through
11 17].

12 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
13 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
14 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
15 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

16
17 **Section 20.** Section 37-3-347, MCA, is amended to read:

18 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
19 deny an application for a telemedicine license if the applicant:

20 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
21 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

22 (b) plans to use telemedicine as a means to obtain the information required for the written certification
23 that is used to apply for a registry identification card pursuant to [sections 1 through 17];

24 ~~(b)~~(c) fails to pay a required fee;

25 ~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

26 ~~(d)~~(e) has committed unprofessional conduct.

27 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
28 apply for a physician's license in order to practice medicine in Montana."

29
30 **Section 21.** Section 41-5-216, MCA, is amended to read:

1 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**

2 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
3 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
4 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
5 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
6 extended jurisdiction.

7 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
8 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
9 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
10 court.

11 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
12 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

13 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
14 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
15 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
16 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
17 offender pursuant to Title 46, chapter 23, part 5.

18 (5) After formal youth court records, law enforcement records, and department records are sealed, they
19 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
20 a new offense, to:

21 (a) those persons and agencies listed in 41-5-215(2); and

22 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
23 age of majority.

24 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
25 under subsection (1), the electronic records of the management information system maintained by the department
26 of public health and human services and by the department relating to the youth whose records are being sealed
27 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

28 (b) The department of public health and human services and the department shall disassociate the
29 offense and disposition information from the name of the youth in the respective management information system.

30 The offense and disposition information must be maintained separately and may be used only:

1 (i) for research and program evaluation authorized by the department of public health and human
2 services or by the department and subject to any applicable laws; and

3 (ii) as provided in Title 5, chapter 13.

4 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
5 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
6 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
7 only pursuant to subsection (5).

8 (b) The informal youth court records may be maintained and inspected only by youth court personnel
9 upon a new offense prior to the youth's 18th birthday.

10 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
11 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
12 in hard-copy form must be destroyed and any electronic records in the youth court management information
13 system must disassociate the offense and disposition information from the name of the youth and may be used
14 only for the following purposes:

15 (i) for research and program evaluation authorized by the office of the court administrator and subject
16 to any applicable laws; and

17 (ii) as provided in Title 5, chapter 13.

18 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
19 court records within the juvenile probation management information system. Electronic records of the youth court
20 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
21 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
22 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
23 as provided in subsection (2) of this section.

24 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
25 court records within the department's youth management information system. Electronic records of the
26 department's youth management information system may not be shared except as provided in subsection (5).
27 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
28 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
29 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

30 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term

1 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
2 of a youth within the facility.

3 (11) This section does not prohibit access to formal or informal youth court records, including electronic
4 records, for purposes of conducting evaluations as required by 41-5-2003.

5 (12) This section does not prohibit the office of court administrator, upon written request from the
6 department of public health and human services, from confirming whether a person applying for a registry
7 identification card pursuant to [section 4 or 5] is currently under youth court supervision."

8
9 **Section 22.** Section 45-9-203, MCA, is amended to read:

10 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
11 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
12 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
13 to the department for issuance of a probationary license under 61-2-302.

14 (2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an
15 offense under this chapter, the court shall:

16 (a) at the time of sentencing, require the person to surrender the registry identification card; and

17 (b) notify the department of public health and human services of the conviction in order for the
18 department to carry out its duties under [section 12]."

19
20 **Section 23.** Section 61-11-101, MCA, is amended to read:

21 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
22 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
23 the suspension or revocation of the driver's license or commercial driver's license of the person by the
24 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
25 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
26 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
27 indicate that fact in its report to the department.

28 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
29 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
30 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after

1 the conviction becomes final. The court may recommend that the department issue a restricted probationary
2 license on the condition that the individual comply with the requirement that the person attend and complete a
3 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

4 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
5 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
6 upon which it is based to the department within 5 days on forms furnished by the department.

7 (4) A conviction becomes final for the purposes of this part upon the later of:

8 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

9 (b) forfeiture of bail that is not vacated; or

10 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
11 execution of a sentence.

12 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
13 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
14 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
15 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
16 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
17 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
18 person who holds any other type of driver's license.

19 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
20 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
21 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
22 subsection (1).

23 (6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is
24 convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the
25 initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court
26 in which the conviction occurs shall require the person to surrender the registry identification card.

27 (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card
28 and a copy of the conviction to the department of public health and human services."

29
30 **NEW SECTION. Section 24. Repealer.** The following sections of the Montana Code Annotated are

- 1 repealed:
- 2 50-46-101. Short title.
- 3 50-46-102. Definitions.
- 4 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 5 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 6 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 7 50-46-205. Limitations of Medical Marijuana Act.
- 8 50-46-206. Affirmative defense.
- 9 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 10 50-46-210. Rulemaking -- fees.

11

12 **NEW SECTION.** **Section 25. Transition.** (1) Registry identification cards issued to persons with
13 debilitating medical conditions prior to [the effective date of this act] are valid until the expiration date listed on
14 the card.

15 (2) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July
16 1, 2011, may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or
17 marijuana-related products on July 1, 2011. Before July 1, 2011, the caregiver shall take the items to the law
18 enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the
19 items.

20

21 **NEW SECTION.** **Section 26. Codification instruction.** [Sections 1 through 17] are intended to be
22 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
23 1 through 17].

24

25 **COORDINATION SECTION.** **Section 27. Coordination instruction.** (1) If both House Bill No. 161 and
26 [this act] are passed and approved, then [this act] is void.

27 (2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101,
28 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill
29 No. 175 is void.

30

NEW SECTION.

Section 28. Instructions to code commissioner. (1) Wherever a reference to "use of marijuana for a debilitating medical condition" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 7 of Senate Bill No. 423].

NEW SECTION.

Section 29. Severability. If a part of [this act] is invalid, all valid parts that are part remain in effect. If a part of [this act] is invalid in one or more of its applications, in all valid applications that are severable from the invalid applications.

NEW SECTION.

Section 30. Effective date. [This act] is effective July 1, 2011.

- END -

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 423

Call to Order: Chair Jeff Essmann, on April 18, 2011 at 10:00 A.M., in Room 335
Capitol

ROLL CALL

Members Present:

Sen. Jeff Essmann, Chair (R)
Rep. Cary Smith, Chair (R)
Rep. Tom Berry (R)
Sen. Cliff Larsen (D)
Rep. Diane Sands (D)
Sen. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present: Sue O'Connell, Legislative Services Division (LSD)
Valencia Lane, LSD
Pam Schindler, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary: SB 423

(Please Note: Some Amending Sections will not be in consecutive order or will not be "Moved and Voted Upon." Various Amending Sections will be internal changes and/or be approved when corresponding Amending Sections are voted upon. Refer to the audio/video minutes if further information is necessary.)

00:00:58 Chairman Essmann
00:02:45 Rep. Sands
00:02:48 Chairman Essmann
00:02:52 Sue O'Connell, Legislative Services Division (LSD)

EXHIBIT(frs86sb0423a01)

EXHIBIT(frs86sb0423a02) (This exhibit will be referred to many times)

EXHIBIT(frs86sb0423a03)

EXHIBIT(frs86sb0423a04)

EXHIBIT(frs86sb0423a05)

00:05:04 Rep. Sands
00:05:22 Ms. O'Connell
00:07:35 Chairman Essmann
00:09:32 Ms. O'Connell
00:10:06 Rep. Berry
00:10:22 Ms. O'Connell
00:11:09 Chairman Essmann
00:11:33 Valencia Lane, LSD
00:16:22 Rep. Berry
00:16:45 Ms. Lane
00:18:38 Rep. Sands
00:19:36 Ms. Lane
00:21:36 Rep. Sands
00:22:04 Ms. Lane
00:22:59 Rep. Smith
00:24:15 Ms. Lane
00:24:28 Chairman Essmann
00:26:20 Rep. Sands
00:26:50 Sen. Vincent
00:27:56 Rep. Berry
00:28:24 Chairman Essmann
00:28:40 Sen. Vincent
00:29:44 Chairman Essmann
00:29:51 Rep. Smith
00:30:13 Chairman Essmann
00:30:58 Ms. O'Connell
00:35:04 Chairman Essmann
00:35:39 Ms. O'Connell
00:37:28 Rep. Sands
00:37:49 Ms. O'Connell
00:38:19 Chairman Essmann
00:38:33 Ms. O'Connell
00:46:41 Chairman Essmann
00:46:59 Ms. O'Connell
00:47:38 Rep. Sands
00:48:38 Ms. O'Connell

00:50:59 Rep. Sands
00:51:19 Chairman Essmann
00:51:38 Rep. Sands
00:51:43 Ms. O'Connell
00:58:16 Chairman Essmann
00:58:23 Ms. O'Connell
00:58:50 Rep. Sands
00:59:16 Ms. O'Connell

Questions from the Committee:

01:02:30 Rep. Smith
01:02:48 Ms. O'Connell
01:03:13 Rep. Berry
01:03:28 Ms. O'Connell
01:04:27 Chairman Essmann
01:04:50 Ms. O'Connell
01:05:28 Chairman Essmann

Discussion:

01:08:33 Chairman Essmann
01:08:38 Rep. Berry

(All amendments discussed below are located in Exhibit #2 unless otherwise noted)

01:09:03 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH SECTIONS 1-5**. Motion carried unanimously by voice vote.

01:09:16 Ms. O'Connell

01:09:48 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH SECTION 6**. Motion carried unanimously by voice vote.

01:10:30 Chairman Essmann ruled that internal changes will be adopted if no objection is made by the Committee Members. The Committee Members agreed.

01:11:08 Ms. O'Connell

01:11:44 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 8**. Motion carried unanimously by voice vote.

01:12:05 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 9**.

Discussion:

01:12:16 Ms. O'Connell

01:12:40 **Substitute Motion/Vote:** Rep. Sands moved to **SEGREGATE WITHIN SUB-SECTION #2, SECTION "b", "c", "i", "ii" FROM SECTION 9.** Motion carried without objection.

01:13:14 Rep. Smith
01:13:26 Chairman Essmann
01:13:45 Rep. Smith
01:14:18 Chairman Essmann

01:14:45 **Motion:** Rep. Sands moved to **STRIKE THE WORD "CARE" FROM ALL PLACES IT APPEARS IN BETWEEN THE WORDS "PRIMARY" AND "PHYSICIAN".**

Discussion:

01:15:05 Chairman Essmann
01:15:14 Rep. Sands
01:15:32 Chairman Essmann
01:15:50 Rep. Sands
01:16:00 Dr. Maryanne Guggenheim, Physician, Board of Medical Examiners, State of Montana
01:17:28 Rep. Sands
01:17:33 Dr. Guggenheim

01:17:57 **Substitute Motion:** Rep. Sands made a substitute motion that **SB 423 BE AMENDED by SUBSTITUTING "TREATING PHYSICIAN" IN PLACE OF "PRIMARY CARE PHYSICIAN".**

Discussion:

01:18:29 Chairman Essmann
01:18:45 Rep. Sands

01:19:20 **Vote:** Motion carried unanimously by voice vote.

01:19:38 Chairman Essmann
01:20:30 Rep. Sands
01:22:08 Sen. Vincent
01:22:46 Dr. Guggenheim
01:24:43 Rep. Smith
01:25:11 Dr. Guggenheim
01:26:17 Rep. Berry
01:27:05 Chairman Essmann
01:27:17 Dr. Guggenheim
01:27:34 Ms. O'Connell
01:28:13 Rep. Smith
01:29:15 Dr. Guggenheim
01:31:13 Rep. Sands
01:33:55 Sen. Vincent
01:34:15 Chairman Essmann

01:36:08 **Motion:** Rep. Smith moved in **SECTION #9, STRIKE ALL LANGUAGE AFTER THE WORD "LEGISLATURE". REMOVE "AFTER REVIEWING RECOMMENDATIONS OF THE ADVISORY BOARD PROVIDED FOR IN ..."**

Discussion:

01:36:49 Chairman Essmann
01:37:12 Rep. Smith
01:38:10 Chairman Essmann
01:38:16 Rep. Smith
01:38:34 Rep. Sands
01:38:57 Sen. Larsen

01:39:23 **Vote:** Motion carried unanimously by voice vote.

01:40:19 Rep. Sands
01:40:37 Chairman Essmann

01:40:46 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH THE REMAINDER OF SECTION 9**. Motion carried unanimously by voice vote.

01:41:12 Ms. O'Connell

01:41:50 **Motion:** Rep. Smith moved that **SB 423 BE AMENDED WITH SECTION 10**.

Discussion:

01:42:03 Rep. Sands

01:42:43 **Vote:** Motion carried unanimously by voice vote.

01:43:09 Ms. O'Connell

01:43:38 **Motion:** Rep. Sands moved **SB 423 BE AMENDED WITH SECTIONS 11 AND 12**.

Discussion:

01:43:59 Chairman Essmann
01:44:39 Rep. Sands
01:45:03 Dr. Guggenheim
01:45:48 Sen. Vincent
01:46:19 Rep. Smith
01:46:51 Ms. O'Connell
01:47:14 Chairman Essmann
01:47:54 Rep. Sands
01:48:12 Dr. Guggenheim
01:48:42 Chairman Essmann

01:49:00 Dr. Guggenheim

01:49:49 Chairman Essmann

01:50:46 Rep. Sands

01:51:18 **Vote:** Motion carried unanimously by voice vote.

01:51:33 Ms. O'Connell

01:52:07 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 13 AND 14.** Motion carried unanimously by voice vote.

01:52:49 Ms. O'Connell

01:53:08 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 15.**

Discussion:

01:53:28 Chairman Essmann

01:54:06 **Vote:** Motion carried unanimously by voice vote.

01:54:23 Ms. O'Connell

01:54:41 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 16 AND 17.** Motion to adopt Section 16 carried unanimously by voice vote.
Motion to adopt Section 17 carried unanimously by voice vote.

01:55:01 Ms. O'Connell

01:55:23 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH A GLOBAL AMENDMENT FOR "MARIJUANA INFUSED PRODUCT" LANGUAGE TO BE INSERTED WHERE APPROPRIATE THROUGHOUT THE BILL.** Motion carried unanimously by voice vote.

01:55:57 Ms. O'Connell

01:56:24 Rep. Sands

01:57:03 Ms. O'Connell

01:57:30 Chairman Essmann

01:58:03 Rep. Smith

01:58:26 Chairman Essmann

01:58:47 Sen. Larsen

01:59:37 Ms. O'Connell

02:00:06 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 20.**

Discussion:

02:01:05 Chairman Essmann

02:01:20 **Substitute Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED BY SEGREGATING "...PHYSICIAN TREATING MINOR....IN SECTION 20"**. Motion carried without objection.

02:02:35 **Substitute Motion/Vote:** Chairman Essmann moved that **SB 423 BE AMENDED BY ADOPTING THE BALANCE OF SECTION 20**. Motion carried unanimously by voice vote.

02:03:31 Chairman Essmann

02:05:46 Recess

02:05:52 Resumed

02:06:13 Ms. O'Connell

02:07:16 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 30 AND 31**. Motion carried unanimously by voice vote.

02:07:51 Ms. O'Connell

02:08:17 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 32**. Motion carried unanimously by voice vote.

02:08:48 Ms. O'Connell

02:09:18 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 33-40**. Motion carried unanimously by voice vote.

02:09:48 Ms. O'Connell

02:10:21 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 41**.

Discussion:

02:10:29 Chairman Essmann

02:10:43 Ms. O'Connell

02:11:10 **Substitute Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT TO INCLUDE "...REPORTING TO THE LEGISLATURE BY THE BOARD OF MEDICAL EXAMINERS THE NUMBER OF PHYSICIANS WHO EXCEED THE NUMBER..."** Motion carried unanimously by voice vote.

02:12:03 **Motion/Vote:** Sen. Vincent moved that **SB 423 BE AMENDED WITH THE REST OF SECTION 41**. Motion carried unanimously by voice vote.

02:12:35 Ms. O'Connell

02:13:18 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 43-45**

Discussion:

02:13:29 Sen. Vincent
02:13:53 Ms. O'Connell

02:14:34 **Vote:** Motion carried unanimously by voice vote.

02:14:56 Ms. O'Connell

02:15:33 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 47**. Motion carried unanimously by voice vote.

02:17:15 Ms. O'Connell

02:19:21 **Substitute Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED AND TO SEGREGATE A, B, C, D, E FROM SECTIONS 48-56**. Motion carried without objection.

Discussion:

02:21:11 Chairman Essmann

02:21:58 **Motion:** Sen. Vincent moved that **SB 423 BE AMENDED WITH SECTION 49**.

Discussion:

02:22:06 Rep. Sands
02:22:50 Rep. Smith
02:23:17 Sen. Larsen

02:23:44 **Vote:** Motion carried unanimously by voice vote.

02:24:18 Ms. O'Connell

02:24:38 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED WITH SECTION 50**.

Discussion:

02:25:06 Rep. Berry
02:25:34 Sen. Larsen
02:26:00 Chairman Essmann
02:26:59 Sen. Vincent

02:28:08 **Vote:** Motion carried unanimously by voice vote.

02:28:34 Sen. Larsen
02:28:49 Ms. O'Connell

02:29:09 Rep. Sands

02:29:24 **Motion/Vote:** Sen. Vincent moved that **SB 423 BE AMENDED WITH SECTION 52-54.** Motion carried unanimously by voice vote.

02:30:34 Chairman Essmann

02:30:41 Rep. Sands

02:30:57 Ms. O'Connell

02:31:22 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 55-56 UNTIL CAPITAL LETTER F.** Motion carried unanimously by voice vote.

02:31:56 Ms. O'Connell

02:32:48 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 56 STARTING WITH SECTION "F"** . Motion carried unanimously by voice vote.

02:33:12 Ms. O'Connell

02:34:05 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 57.**

Discussion:

02:34:20 Sen. Larsen

02:34:52 Ms. O'Connell

02:35:55 **Vote:** Motion carried unanimously by voice vote.

02:36:11 Ms. O'Connell

02:36:49 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 64.** Motion carried unanimously by voice vote.

02:38:07 Ms. O'Connell

02:38:36 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 65-66.** Motion carried unanimously by voice vote.

02:39:02 Ms. O'Connell

02:40:07 Sen. Larsen

02:40:26 Rep. Sands

02:40:44 Chairman Essmann

02:41:49 Rep. Sands

02:42:17 Sen. Vincent

02:43:31 Chairman Essmann

02:44:10 Rep. Smith

02:45:47 Rep. Sands

02:46:50 Rep. Berry

02:47:21 Chairman Essmann
02:47:26 Sen. Vincent
02:48:19 Ms. O'Connell

02:48:50 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 73 AND TO ADD "STREET ADDRESS"**.

Discussion:

02:49:05 Sen. Vincent
02:49:46 Ms. O'Connell
02:50:03 Rep. Sands

02:51:04 **Vote:** Motion carried unanimously by voice vote.

02:51:16 Ms. O'Connell
02:52:40 Sen. Larsen
02:53:15 Chairman Essmann

02:53:30 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77.**

Discussion:

02:53:43 Rep. Smith
02:55:42 Sen. Larsen
02:56:35 Rep. Smith
02:56:49 Sen. Larsen
02:57:35 Chairman Essmann

02:58:20 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 1.** Motion carried unanimously by voice vote.

Discussion:

02:58:55 Chairman Essmann
02:59:08 Rep. Berry
02:59:41 Sen. Vincent
03:00:53 Rep. Berry
03:01:10 Sen. Vincent
03:01:49 Rep. Smith
03:02:28 Sen. Vincent
03:02:52 Sen. Smith
03:03:18 Sen. Vincent
03:03:27 Rep. Sands
03:04:47 Chairman Essmann

03:04:58 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, DELETING SECTION 4.** Motion carried unanimously by voice vote.

03:05:41 Sen. Vincent

03:06:11 Chairman Essmann
03:06:16 Rep. Sands
03:07:47 Rep. Smith

03:08:04 Rep. Sands
03:08:17 Sen. Vincent

03:08:35 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 2** Motion carried unanimously by voice vote.

03:08:59 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 3.**

Discussion:

03:09:30 Chairman Essmann

03:09:47 **Substitute Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 3B, DELETING 3A.** Motion carried unanimously by voice vote.

03:10:21 **Motion:** Rep. Berry moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 5.**

Discussion:

03:10:54 Rep. Smith
03:11:11 Rep. Berry
03:11:33 Chairman Essmann
03:11:41 Rep. Sands
03:12:14 Rep. Smith
03:12:47 Chairman Essmann
03:12:53 Rep. Berry **WITHDREW PREVIOUS MOTION.**

03:13:02 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 77, SUB-SECTION 6 and MIS-NUMBERED (6) 7.**

Discussion:

03:13:32 Rep. Smith

03:13:58 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED AND TO SEGREGATE SUB-SECTION 6 FROM SECTION 77.**

Discussion:

03:14:26 Rep. Sands
03:14:33 Ms. O'Connell
03:14:39 Rep. Sands

03:14:42 **Vote:** Motion carried unanimously by voice vote.

03:15:10 Ms. O'Connell

03:16:09 Chairman Essmann

03:17:10 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 78-88 and TO MAKE CONFORMING AMENDMENTS.**

Discussion:

03:18:01 Sen. Larsen

03:18:55 Chairman Essmann

03:19:05 **Vote:** Motion carried unanimously by voice vote.

03:19:45 Recess

03:37:23 Resume

03:37:40 Ms. O'Connell

03:38:28 Chairman Essmann

03:38:49 Ms. O'Connell

03:39:41 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 99.** Motion carried unanimously by voice vote.

03:40:29 Ms. O'Connell

03:41:09 Chairman Essmann

03:41:15 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 100.**

Discussion:

03:41:32 Rep. Berry

03:41:52 Rep. Sands

03:42:18 Ms. O'Connell

03:42:48 Rep. Smith

03:43:23 Chairman Essmann

03:43:34 Rep. Sands

03:44:19 Chairman Essmann

03:44:45 Sen. Vincent

03:45:13 **Vote:** Motion carried unanimously by voice vote.

03:45:27 Ms. O'Connell

03:46:21 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 102-105.** Motion carried unanimously by voice vote.

03:46:55 Ms. O'Connell

03:48:00 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH SECTIONS 108-113.** Motion carried unanimously by voice vote.

03:48:33 Ms. O'Connell

03:49:08 **Motion:** Rep. Berry moved **SB 423 BE AMENDED WITH LANGUAGE CHANGING "...3.5 TO 5.0 LEVEL OF IMPAIRMENT BY CANNABANOIDS..."**.

Discussion:

03:49:53 Chairman Essmann
03:50:11 Rep. Berry
03:50:22 Rep. Smith
03:51:01 Chairman Essmann
03:51:12 Rep. Sands
03:51:40 Rep. Berry
03:51:59 Chairman Essmann
03:52:19 Rep. Sands
03:52:43 Rep. Berry
03:53:01 Sen. Larsen
03:53:50 Chairman Essmann
03:54:01 Sen. Vincent
03:54:16 Rep. Sands

03:54:35 **Vote:** Motion carried unanimously by voice vote.

03:54:51 Ms. O'Connell
03:55:13 Chairman Essmann
03:55:41 Rep. Smith
03:56:11 Rep. Sands
03:58:00 Sen. Vincent
03:58:20 Rep. Smith
03:58:32 Sen. Vincent
03:58:50 Chairman Essmann
03:59:31 Rep. Sands

03:59:46 Ms. O'Connell

04:00:49 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH "...RESIDENTIAL CARE FACILITY" AFTER THE WORD HOSPICE ON PAGE 11, LINE 3.** Motion carried unanimously by voice vote.

EXHIBIT(frs86sb0423a06)

04:01:39 Ms. O'Connell
04:02:29 Rep. Sands
04:02:48 Chairman Essmann
04:03:36 Rep. Smith

04:03:51 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH SECTIONS 115-117, ENDING BEFORE NEW SECTION.** Motion carried unanimously by voice vote.

04:04:26 Ms. O'Connell

04:05:18 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH "NEW SECTION" IN SECTION 117.**

Discussion:

04:05:46 Chairman Essmann

04:05:57 Rep. Berry

04:06:08 Rep. Sands

04:06:49 Ms. O'Connell

04:07:41 **Substitute Motion:** Rep. Sands moved to **DELETE SUB-SECTION 4B FROM SECTION 117.**

Discussion:

04:08:17 Rep. Smith

04:08:49 Chairman Essmann

04:09:21 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED AND TO DELETE FROM SECTION 117, SUB-SECTION 2A AND 4B.** Motion carried unanimously by voice vote.

04:09:56 Ms. O'Connell

04:10:59 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 118-120.** Motion carried unanimously by voice vote.

04:11:46 Ms. O'Connell

04:12:15 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 122-125.**

Discussions:

04:12:39 Rep. Smith

04:13:11 Rep. Sands

04:13:33 Ms. O'Connell

04:13:46 Chairman Essmann

04:14:40 Rep. Smith

04:15:02 Rep. Sands

04:15:26 Chairman Essmann

04:15:56 Ms. O'Connell

04:16:31 **Substitute Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT FOR SECTION 125 WITH LANGUAGE, "...ANY VIOLATION OF THIS PROVISION REVOKES YOUR PROVIDER PRIVILEGES..." FOR PAGE 6, LINE 29.**

Discussion:

04:17:36 Sen. Larsen

04:17:49 Rep. Sands

04:18:41 **Vote:** Motion carried unanimously by voice vote.

04:19:05 Ms. O'Connell

04:19:18 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 122-125.** Motion carried unanimously by voice vote.

04:20:03 Ms. O'Connell

04:20:40 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 126.**

Discussion:

04:20:49 Chairman Essmann

04:21:15 Ms. O'Connell

04:21:46 Rep. Sands

04:21:56 Jean Branscum, Executive Director, Board of Medical Examiners, State of Montana

04:23:30 **Vote:** Motion carried unanimously by voice vote.

04:23:48 Ms. O'Connell

04:24:20 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 131-132.** Motion carried unanimously by voice vote.

04:24:52 Ms. O'Connell

04:25:23 Chairman Essmann

04:25:40 Ms. O'Connell

04:25:47 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 133.**

Discussion:

04:26:04 Rep. Smith

04:26:45 Chairman Essmann

04:28:15 Rep. Smith

04:28:25 Rep. Sands

04:29:43 Rep. Smith

04:30:13 Chairman Essmann
04:30:57 Rep. Smith
04:31:10 Sen. Larsen

04:32:06 **Vote:** Motion carried unanimously by voice vote.

04:32:22 Ms. O'Connell

04:32:35 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH "...LEGISLATIVE MONITORING LANGUAGE FOR PAGE 13, LINE 20..."** (Refer to exhibit 6, section 7).

Discussion:

04:34:23 Ms. O'Connell

04:34:45 **Vote:** Motion carried unanimously by voice vote.

04:35:06 Ms. O'Connell

04:36:32 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 140, 142, 143.** Motion carried unanimously by voice vote.

04:37:04 Ms. O'Connell

04:37:45 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 146 UP TO SECTION 28.** Motion carried unanimously by voice vote.

04:38:05 Ms. O'Connell
04:38:46 Rep. Sands
04:39:05 Chairman Essmann

04:39:12 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 146, BALANCING REMAINING, SUB-SECTION 28 AND 29.** Motion carried unanimously by voice vote.

04:39:59 Ms. O'Connell

04:40:23 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 147.**

Discussion:

04:40:54 Chairman Essmann
04:41:15 Ms. O'Connell
04:41:20 Chairman Essmann
04:41:41 Ms. O'Connell
04:42:10 Rep. Smith
04:42:25 Sen. Larsen
04:42:53 Rep. Smith
04:43:21 Chairman Essmann
04:43:54 Ms. O'Connell

04:44:18 Chairman Essmann
04:44:31 Rep. Sands
04:45:29 Chairman Essmann
04:46:08 Rep. Smith
04:46:13 Rep. Sands

04:46:37 **Vote:** Motion carried unanimously by voice vote.

04:46:54 Ms. O'Connell

04:49:11 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 148-151.**

Discussion:

04:49:33 Rep. Berry
04:49:48 Ms. O'Connell
04:49:54 Rep. Berry
04:50:01 Rep. Sands
04:51:12 Rep. Smith
04:51:43 Chairman Essmann
04:52:09 Rep. Sands
04:52:11 Sen. Larsen
04:53:14 Rep. Berry
04:53:44 Rep. Sands
04:54:13 Rep. Smith
04:54:43 Chairman Essmann

04:55:09 **Vote:** Motion carried unanimously by voice vote.

04:55:35 Ms. O'Connell

04:56:18 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 156-157.** Motion carried unanimously by voice vote.

Discussion:

04:57:07 Chairman Essmann
04:57:21 Rep. Sands
04:57:34 Sen. Vincent
04:58:13 Rep. Smith
04:58:26 Rep. Sands
04:59:29 Sen. Vincent
05:00:11 Sen. Larsen

05:00:43 **Motion/Vote:** Rep. Berry moved that **SB 423 BE AMENDED WITH REMOVING THE "WHEREAS" PAGE 1, LINES 18 THROUGH 26.** Motion carried unanimously by voice vote. (Please refer to Exhibit 1)

Committee Discussion:

(Please refer to audio/video for the general topics discussed by the committee members)

05:01:13	Chairman Essmann
05:01:35	Rep. Sands
05:02:17	Chairman Essmann
05:03:54	Rep. Berry
05:04:29	Rep. Sands
05:06:37	Chairman Essmann
05:07:38	Rep. Sands
05:07:49	Ms. O'Connell
05:08:06	Sen. Vincent
05:09:33	Chairman Essmann
05:09:39	Rep. Berry
05:09:57	Rep. Smith
05:10:21	Sen. Vincent
05:11:06	Chairman Essmann
05:13:04	Rep. Smith
05:13:31	Chairman Essmann
05:13:40	Ms. O'Connell
05:14:30	Rep. Sands
05:15:22	Rep. Smith
05:16:36	Sen. Vincent
05:17:05	Rep. Sands
05:18:34	Sen. Vincent
05:18:42	Rep. Sands
05:19:21	Chairman Essmann
05:20:26	Rep. Sands
05:22:09	Chairman Essmann
05:22:49	Rep. Sands
05:23:13	Chairman Essmann
05:23:33	Rep. Smith
05:25:22	Sen. Larsen
05:26:51	Rep. Smith
05:27:10	Ms. O'Connell
05:27:33	Rep. Berry
05:27:43	Sen. Vincent
05:29:53	Rep. Smith
05:30:15	Sen. Vincent
05:30:41	Chairman Essmann
05:31:44	Rep. Sands
05:32:18	Chairman Essmann
05:32:31	Rep. Smith
05:33:04	Chairman Essmann
05:34:11	Sen. Vincent
05:34:28	Rep. Smith
05:34:59	Sen. Vincent
05:35:08	Rep. Berry
05:35:20	Chairman Essmann

05:35:34 Ms. O'Connell
05:35:42 Sen. Vincent
05:36:19 Chairman Essmann
05:38:03 Rep. Smith
05:38:57 Chairman Essmann
05:39:21 Rep. Sands
05:39:34 Rep. Smith

05:39:47 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH LANGUAGE ABOUT, "... PHYSICIAN AFFILIATION PROHIBITION..."**.

Discussion:

05:40:18 Ms. O'Connell

05:40:54 **Vote:** Motion carried unanimously by voice vote.

05:41:30 Rep. Sands
05:42:39 Chairman Essmann
05:43:24 Rep. Sands
05:43:54 Rep. Smith
05:44:31 Sen. Larsen
05:45:26 Sen. Vincent
05:45:35 Rep. Sands
05:46:39 Sen. Vincent
05:47:34 Chairman Essmann
05:47:49 Rep. Sands
05:48:39 Rep. Berry
05:49:18 Rep. Smith
05:49:55 Ms. O'Connell
05:50:40 Rep. Smith
05:51:01 Chairman Essmann
05:52:29 Ms. O'Connell

(The Committee recessed until LSD could make the amended changes to SB 423. When the amended SB 423 is ready, the Committee will reconvene for further review.)

ADJOURNMENT

Adjournment: 8:00 P.M.

Pam Schindler, Secretary

Additional Documents:

EXHIBIT([frs86sb0423aad.pdf](#))

EX-001
DATE 4/18/11
BY 8823

2011 Montana Legislature

[Additional Bill Links](#) [PDF \(with line numbers\)](#)

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SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A ~~SYSTEM OF LICENSING~~
REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF
MARIJUANA ~~FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS~~; REQUIRING REPORTING; ALLOWING
INSPECTIONS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ~~CREATING A SPECIAL~~
~~REVENUE ACCOUNT~~; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-~~
~~136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-~~
~~10-103, 45-10-107, 50-46-201, 50-46-202, 45-9-203, 45-10-202, 50-46-201, 50-46-202, AND 61-11-101, 69-1-~~
~~114, AND 69-1-401, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-~~
~~46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."~~

WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR
DISPENSING A CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT
TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL
CONTROLLED SUBSTANCES ACT; AND

WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT;
AND

WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT,
THE STATE OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE
FEDERAL CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading -- Blue Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 21] may be cited as the "Montana
Marijuana Act".

(2) The purpose of [sections 1 through 21] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 21] by persons who obtain registry identification cards; and

(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and

(e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 21], the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by a court of competent jurisdiction.

(2) "Debilitating medical condition" means a medical condition determined by a physician to be debilitating for the person diagnosed with the condition.

(a) cancer, carcinoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) anorexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's primary care physician; and

(ii) objective proof of the efficacy of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

P. 1
6

P. 1
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P. 2
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(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the LEGISLATURE AFTER REVIEWING RECOMMENDATIONS OF THE ADVISORY BOARD PROVIDED FOR IN [SECTION 3]. (HOUSE VERSION REMOVED ADVISORY BOARD; MAY WANT TO DISCUSS HOW CONDITIONS ARE ADDED AND BY WHOM)

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder, by a means other than smoking.

(b) The term includes but is not limited to edibles, products, tinctures, and liqueurs.

(7) (a) "Marijuana-infused products provider" means a non-tena resident who meets the requirements of [sections 1 through 21] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's primary care or referral physician.

(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9) "Paraphernalia" has the meaning provided in 45-10-101.

(10) "Physician Primary care physician" means a person who:

(a) is licensed under Title 37, chapter 3--and;

(b) has an established office located in Montana; and

(c) has a bona fide professional relationship with the person applying to be a registered cardholder.

(11) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to cultivate, manufacture, possess, or transport marijuana for use by assist a registered cardholder as allowed under [sections 1 through 21].

(b) The term does not include the cardholder's primary care or referral physician.

(12) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

1 (iv) has an established office in Montana; and

2 (v) is the physician to whom a patient's primary care physician has referred the patient for physical
3 examination and medical assessment.

4 (13) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition
5 who has received and maintains a valid registry identification card.

6 (14) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused
7 products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder

P.3
16

8 (15) "Registry identification card" means a document issued by the department pursuant to [section 3] that
9 identifies a person as a registered cardholder or, provider, or marijuana-infused products provider.

10 (16) (a) "Resident" means an individual who meets the requirements of 1-1-215.

11 (b) An individual is not considered a resident for the purposes of [sections 1 through 21] if the individual:

12 (i) claims residence in another state or country for any purpose; or

13 (ii) is an absentee property owner paying property tax on property in Montana.

14 (17) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter,
15 spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-
16 in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,

17 stepdaughter, stepgrandparent, or stepgrandchild

18 (18) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches
19 in diameter.

21 (19) "Standard of care" means ~~the standard established by me~~ ~~by the board of medical examiners~~, at a
22 minimum:

23 (a) the following activities when undertaken by a patient's primary care physician or referral physician if the
24 primary care physician or referral physician is providing written certification for a patient with a debilitating medical
25 condition:

26 (i) obtaining the patient's medical history;

27 (ii) performing a relevant physical examination;

28 (iii) reviewing prior treatment and treatment response for the debilitating medical condition;

29 (iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

30 (v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
31 alternatives, potential adverse effects, and expected response to the recommended treatment;

32 (vi) monitoring the response to treatment and possible adverse effects; and

33 (vii) creating and maintaining patient records that remain with the physician; or

P.4
17

P.4
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- (b) the following activities undertaken by the second physician who is providing written certification for a minor:
- (i) obtaining the patient's medical history;
 - (ii) reviewing prior treatment and treatment response for the debilitating medical condition;
 - (iii) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition; and
 - (iv) creating and maintaining patient records that remain with the physician.

(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(21) "Written certification" means a statement signed by a ~~seating~~ primary care or referral physician that meets the requirements of [section 4] and is provided in a manner that meets the standard of care.

NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports.

(1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 21]; and

(ii) are named as providers ~~or marijuana-infused products providers~~ by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 21].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider ~~or marijuana-infused products provider~~.

(3) Registry identification cards issued pursuant to [sections 1 through 21] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider ~~or marijuana-infused products provider~~, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

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1 (e) easily identify whether the card is for a person with a debilitating medical condition ~~or for~~, a provider, or a
2 marijuana-infused products provider; and

3 (f) contain other information that the department may specify by rule.

4 (4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to
5 [sections 1 through 21] and shall approve or deny an application or renewal within ~~15~~ 30 days of receiving the
6 application or renewal and all related application materials.

7 (b) The department shall issue a registry identification card within ~~15~~ 5 days of approving an application or
8 renewal.

9 (5) Registry identification cards expire 1 year after the date of issuance unless

10 (a) a physician has provided a written certification stating that the card is valid for a shorter period of time; or

11 (b) a registered cardholder changes providers ~~or marijuana-infused products providers~~. A provider's or
12 marijuana-infused products provider's registry identification card expires at the time the department issues
13 a card to a new provider ~~or marijuana-infused products provider~~ named by a registered cardholder.

14 (6) A registered cardholder shall notify the department of any change in the cardholder's name, address,
15 physician, ~~or provider~~, or ~~marijuana-infused products provider~~ or change in the status of the cardholder's
16 debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the
17 department, the registry identification card is void.

18 (7) The department shall maintain a confidential list of persons to whom the department has issued registry
19 identification cards. Except as provided in subsection (8), individual names and other identifying information on
20 the list must be confidential and are not subject to disclosure, except to:

21 (a) authorized employees of the department as necessary to perform the official duties of the department; and

22 (b) authorized employees of state or local government agencies, including law enforcement agencies, only as
23 necessary to verify that an individual is a lawful possessor of a registry identification card.

24 (8) The department shall provide the names of registered cardholders ~~and~~ providers, and marijuana-infused
25 products providers to the local law enforcement agency having jurisdiction in the area in which the cardholders ~~or~~,
26 providers, or marijuana-infused products providers ~~live~~ are located. The law enforcement agency and its
27 employees are subject to the confidentiality requirements of [section ~~44~~ 16].

28 (9) (a) The department shall provide the board of medical examiners with the name of any physician who
29 provides written certification for 15 or more patients within a 12-month period. The board of medical examiners
30 shall review the physician's practices in order to determine whether the practices meet the standard of care.

31 (b) The physician whose practices are under review shall pay the costs of the board's review activities.

(10) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders or physicians, providers, or marijuana-infused products providers.

(11) The board of medical examiners shall report annually to the legislature, as provided in 37-3-203, on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana. (THIS SUBSECTION IS NEEDED TO COORDINATE WITH HB 82)

NEW SECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) and (3) (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;
- (g) the name of the person's treating primary care or referral physician and the street address and telephone number of the physician's office;
- (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
- (j) ~~a statement~~ the written certification and accompanying statements from the person's treating primary care or referral physician as required pursuant to [section 6 7].

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(2) The department shall issue a registry identification card to a minor if the materials required under subsection (2) (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) ~~the minor's physician~~ ^{two physicians} have explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-infused products provider; P. 8, # 52

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana; P. 8, # 54

(E) ~~undergoes a name based search~~ ^{provides} fingerprints to facilitate a fingerprint and background check by the

department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the

background check and ~~may not~~ obtain a registry identification card as a marijuana-infused products provider if the

parent or legal guardian does not meet the requirements of (section 2).

(F) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.

(3) The application for a minor must include written certification and the statements required under (section 7) from:

(a) the primary care physician who is recommending marijuana for use by the minor; and

(b) a second physician who has conducted a comprehensive review of the minor's medical record as maintained by the minor's primary care physician and who is recommending marijuana for use by the minor.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or, or a youth court, ~~A DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM.~~

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use.

1 (6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9 10] only:

2 (a) at a property that is owned by the cardholder; or

3 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

4 (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
5 cardholder may be shared with or rented or leased to a provider ~~or to a marijuana-infused products provider~~, or a
6 registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each
7 other by the second degree of kinship by blood or marriage.

8
9 **NEW SECTION. Section 5. Providers – Provider types -- requirements – limitations – provider**
10 **activities.** (1) The department shall issue a registry identification card to the person who is named as a provider
11 ~~or marijuana-infused products provider~~ in a registered cardholder's approved application if the person submits to
12 the department:

13 (a) the person's name, date of birth, and street address on a form prescribed by the department;

14 (b) proof that the person is a Montana resident;

15 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal
16 bureau of investigation;

17 (d) a written agreement signed by the registered cardholder ~~that indicates whether the person will act as the~~
18 ~~cardholder's provider or marijuana-infused products provider;~~

19 (e) a statement, on a form prescribed by the department, that the person will not divert to any other person the
20 marijuana that the person cultivates or manufactures for a registered cardholder;

21 (f) a statement ~~indicating whether~~ acknowledging that the person will cultivate and manufacture marijuana for
22 the registered cardholder at only one location and indicating whether the location will be a property owned,
23 rented, or leased by the cardholder or by the person; ~~and~~. The location must be identified by street address.

24 (g) a fee as determined by the department to cover the costs of the fingerprint and background check and
25 associated administrative costs of processing the registration.

26 (2) The department may not register a person as a provider under this section if the person:

27 (a) has a felony conviction or a conviction for a drug offense;

28 (b) is in the custody of or under the supervision of the department of corrections or a youth court, ~~A DISTRICT~~
29 ~~COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY~~
30 ~~STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM;~~

31 (c) has failed to:

32 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

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(ii) stay out of default on a government-issued student loan;
(iii) pay child support; or
(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency.

(3) A provider or marijuana-infused products provider may assist only one registered cardholder unless the provider or marijuana-infused products provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider or marijuana-infused products provider by the second degree of kinship by blood or marriage.

(4) Marijuana for use pursuant to [sections 1 through 21] must be cultivated and manufactured in Montana.

(5) A provider may, as allowed by the department by rule, transfer seedlings, cuttings, or clones to another provider or a registered cardholder who has indicated that the registered cardholder will cultivate and manufacture the cardholder's marijuana.

P.10
#72

(6) A provider or person registered under this section may not:

- (a) accept compensation for any services or products provided to a registered cardholder;
- (b) use marijuana; or
- (c) be a registered cardholder.

(7) (a) A provider or person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

- (i) a property that is owned by the provider or marijuana-infused products provider;
 - (ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or
 - (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].
- (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

P.10-11, #77

NEW SECTION. Section 5. Marijuana-infused products provider -- requirements -- allowable activities.

(1) An individual registered as a marijuana-infused products provider shall

- (a) prepare marijuana-infused products at a premises registered with the department that is used exclusively for the manufacture and preparation of marijuana-infused products, and
 - (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.
- (2) A marijuana-infused products provider

- (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
- (b) may not provide a cardholder with marijuana in a form that may be used for smoking.
- (3) All registered premises on which marijuana-infused products are manufactured must meet:
- (a) the sanitary standards for marijuana-infused product preparation adopted by the department; and
- (b) any applicable standards set by a local board of health for a food service establishment as defined in 50-102.
- (4) The department shall determine the maximum amount and forms of marijuana that a marijuana-infused products manufacturer may possess for conversion to marijuana-infused products
- (5) A marijuana-infused product must be prepackaged and labeled in accordance with rules adopted by the department to indicate at a minimum that:
- (a) the product contains marijuana;
- (b) the product is manufactured without any regulatory oversight for efficacy; and
- (c) health risks may be associated with the consumption or use of the product.
- (6) Marijuana and marijuana-infused products may not be consumed on a registered premises.
- (7) Marijuana-infused products may not be considered a minor drug for the purposes of Title 50, chapter 21.

NEW SECTION. Section 6-7. Physician-statement Written certification – accompanying statements. (1)

The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

- (a) include the physician's name, license number, office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and
- (b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A physician who is providing written certification for a qualifying patient 18 years of age or older or who is the primary care physician for a minor applying for a registry identification card shall provide a statement initiated by the physician that must:

- (a) confirm that the physician is:
- (i) the person's treating primary care or referral physician and that the person has been under the physician's ongoing medical care and supervision as part of a bona fide professional relationship with the person; or
- (ii) the person's referral physician.

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after conducting a comprehensive medical history and physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;

(j) list restrictions on the person's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

and

(l) state that the physician will:

(i) continue to serve as the person's ~~treating~~ primary care or referral physician; and

(ii) ~~supervise~~ monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment;

and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initiated by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the primary care physician as required pursuant to [sections 1 through 21];

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

NEW SECTION. Section 7 8. Registry card to be carried and exhibited on demand -- photo

Identification required. A registered cardholder ~~or, provider, or marijuana-infused products provider~~ shall keep the ~~cardholder's or provider's~~ person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. Section 8 9. Health care facility procedures for patients with marijuana for use. (1)

Except for hospices that allow the use of marijuana as provided in [section ~~48 11~~], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider ~~or marijuana-infused products provider~~, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider ~~or marijuana-infused products provider~~ contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. Section 9 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder

may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider may possess the amounts allowed under subsection (1)(a) for each registered cardholder who has named the person as the registered cardholder's provider.

(c) A marijuana-infused products provider may possess the number of plants and seedlings and the amount of usable marijuana allowed by the department by rule pursuant to [section 6]

(2) Except as provided in [section ~~48 11~~] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 21] may not be arrested,

P.14
93

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1 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty
2 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

3 (a) ~~the registered cardholder or provider~~ individual cultivates, manufactures, possesses, or transports
4 marijuana in the amounts allowed under this section; or

5 (b) the registered cardholder acquires or uses marijuana.

6 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
7 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
8 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
9 condition.

10 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional
11 licensing board or the department of labor and industry if:

12 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

13 (b) a physician violates the standard of care or other requirements of [sections 1 through 21].

14 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in
15 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of
16 marijuana as permitted under [sections 1 through 21].

17 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a
18 registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a
19 registered cardholder.

20 (6) ~~Possession~~ Except as provided in [section 10], possession of or application for a registry identification card
21 does not alone constitute probable cause to search the individual or the property of the individual possessing or
22 applying for the registry identification card or otherwise subject the individual or property of the individual
23 possessing or applying for the card to inspection by any governmental agency, including a law enforcement
24 agency.

25 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual
26 unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It
27 is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the
28 filing of a criminal charge.

29
30 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be
31 engaged in the use of marijuana as allowed by [sections 1 through 21] if the person:

32 (i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 21].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

NEW SECTION. Section 10 11. Limitations of the act. (1) [Sections 1 through 21] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) ~~when ordered by any court of competent jurisdiction into a correctional facility or program, INCLUDING ALL FACILITIES DESCRIBED IN 53-4-203;~~

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202,

(viii) at a public park, public beach, public recreation center, or youth center;

(ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children; ~~OR~~

~~(xii) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM.~~

(2) A registered cardholder ~~or a provider~~, or a marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 21] may be construed to require:

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1 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2,
2 chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a
3 person for costs associated with the use of marijuana by a ~~person with a debilitating medical condition~~ registered
4 cardholder;

5 (b) an employer to accommodate the use of marijuana by a registered cardholder;

6 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities;
7 or

8 (d) a landlord to allow a tenant who is a registered cardholder ~~or a provider~~, or a marijuana-infused products
9 provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

10 (5) Nothing in [sections 1 through 21] may be construed to:

11 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a
12 debilitating medical condition; or

13 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination
14 pursuant to 49-1-102.

15 (6) Nothing in [sections 1 through 21] may be construed to allow a provider ~~or marijuana-infused products~~
16 provider to use marijuana or to prevent criminal prosecution of a provider ~~or marijuana-infused products~~ provider
17 who uses marijuana or paraphernalia for personal use.

18 (7) (a) A law enforcement officer who has reasonable cause to believe that a ~~registered cardholder or provider~~
19 person with a registry identification card is driving under the influence of marijuana may apply for a search warrant
20 to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405.
21 A person with a tetrahydrocannabinol (THC) level of 3.5 ng/ml may be charged with a violation of 61-8-401.

22 (b) A registered cardholder ~~or provider~~ ~~or marijuana-infused products~~ provider who violates subsection (1)(a)
23 is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to
24 any offense related to driving under the influence of alcohol or drugs when the initial offense with which the
25 individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must
26 be for the period of suspension or revocation set forth:

27 (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

28 (ii) in 61-8-410 for a violation of 61-8-410.

29 (c) If a person's registry identification card is subject to renewal during the revocation period, the person may
30 not renew the card until the full revocation period has elapsed. The card may be renewed only if the person
31 submits all materials required for renewal.

1 **NEW SECTION. Section 11 12. Local government authority to regulate.** (1) To protect the public health,
2 safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused
3 products provider that operates within the local government's jurisdictional area. The regulations may include but
4 are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure
5 compliance with any public health, safety, and welfare requirements established by the department or the local
6 government.

7 (2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused
8 products providers from operating as storefront businesses

9
10 **NEW SECTION. Section 13. Inspection procedures.** (1) The department and state or local law enforcement
11 agencies may conduct frequent, unannounced inspections of registered premises.

12 (2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records
13 necessary to show all transactions with registered cardholders and other providers or marijuana-infused products
14 providers. The records must be open for inspection by the department and state or local law enforcement
15 agencies at any time.

16 (b) The department may require a provider or marijuana-infused products provider to furnish information
17 that the department considers necessary for the proper administration of [sections 1 through 21].

18 (3) (a) A registered premises, including any place of storage, where marijuana is cultivated,
19 manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the
20 purpose of inspection or investigation.

21 (b) If any part of the registered premises consists of a locked area, the person with a registry identification
22 card shall make the area available for inspection without delay upon request of the department or state or local
23 law enforcement officials.

24 (4) A provider or marijuana-infused products provider shall maintain records showing the names and
25 registry identification numbers of:

26 (a) registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused
27 products were transferred and the quantities transferred to each cardholder; and

28 (b) the number of seedlings transferred to another provider, marijuana-infused products provider, or
29 registered cardholder and the dates on which the transfers occurred.

P. 16

117

NEW SECTION. Section 14 14. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the ~~cardholder's~~ person's:

(i) registry identification card; or

(ii) mature marijuana plants ~~or seedlings~~, usable marijuana, or marijuana-infused products.

(2) A registered cardholder ~~or a provider~~ or marijuana-infused products provider who violates [sections 1 through 21] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 21] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. Section 14 15. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder ~~or a provider~~ or marijuana-infused products provider is guilty of a felony misdemeanor punishable by imprisonment in ~~the state prison or a county jail for a term not less than to exceed 1 year or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 6 7] is guilty of a felony misdemeanor punishable by imprisonment in ~~the state prison or a county jail for not less than a term not to exceed 1 year or not more than 5 years~~ or a fine not to exceed \$50,000 \$1,000, or both.

NEW SECTION. Section 14 16. Confidentiality of registry information -- penalty. (1) A Except as provided in § 7-3-203, a person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 21].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. (CHANGE IS NEEDED HERE TO COORDINATE WITH HB 82)

NEW SECTION. Section 15 17. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a debilitating medical condition ~~or the person's provider~~ registry identification card.

1
2 **NEW SECTION. Section 18. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
3 property seized by a law enforcement official from a person claiming the protections of [sections 1 through 21] in
4 connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be
5 returned to the person immediately upon a determination that the person is in compliance with the provisions of
6 [sections 1 through 21].

7 (2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is
8 not responsible for the care and maintenance of the plants or seedlings.
9

10
11 **NEW SECTION. Section 19. Advertising prohibited.** Persons with valid registry identification cards may not
12 advertise marijuana or marijuana-related products in any medium, including electronic media.
13

14 **NEW SECTION. Section 20. Hotline.** (1) The department shall create and maintain a hotline to receive
15 reports of suspected abuse of the provisions of [sections 1 through 21].

16 (2) The department may:
17 (a) investigate reports of suspected abuse of the provisions of [sections 1 through 21]; or
18 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the
19 suspected abuse is occurring

20 **NEW SECTION. Section 21. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary
21 for the implementation and administration of [sections 1 through 21]. The rules must include but are not limited to:

22 (a) the manner in which the department will consider applications for registry identification cards for providers
23 and marijuana-infused products providers and for persons with debilitating medical conditions and renewal of
24 registry identification cards for providers and registered cardholders;

25 (b) the acceptable forms of proof of Montana residency;
26 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under [section
27 sections 4 and 5]; and

28 (d) the number of plants and seedlings and amount of usable marijuana that a marijuana-infused products
29 provider may possess; and

30 (E) other rules necessary to implement the purposes of [sections 1 through 21].

31 (2) The department's rules must establish application and renewal fees that generate revenue sufficient to
32 offset all expenses of implementing and administering [sections 1 through 21].

1
2 **Section 22.** Section 37-1-316, MCA, is amended to read:

3 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
4 applicant governed by this part:

5 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed
6 during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft,
7 whether or not an appeal is pending;

8 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure
9 or certification;

10 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
11 securing a license or license renewal or in taking an examination required for licensure;

12 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
13 knows or reasonably ought to know contains a false or misleading statement;

14 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the
15 profession or occupation;

16 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee
17 or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or
18 ordinance governing the licensee's profession or occupation;

19 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee
20 by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal,
21 under judicial review, or has been satisfied;

22 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

23 (9) revealing confidential information obtained as the result of a professional relationship without the prior
24 consent of the recipient of services, except as authorized or required by law;

25 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the
26 extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

27 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice the
28 profession or occupation with reasonable skill and safety;

29 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease
30 involving serious risk to public health or without taking adequate precautions, including but not limited to informed
31 consent, protective gear, or cessation of practice;

1 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
2 regarding the accounting and distribution of a client's property or funds;

3 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the
4 use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence
5 in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a
6 person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed,
7 prosecuted, or completed;

8 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
9 organization to practice or offer to practice by use of the licensee's license;

10 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
11 appeal, against the licensee or of an action against the licensee by a:

12 (a) peer review committee;

13 (b) professional association; or

14 (c) local, state, federal, territorial, provincial, or Indian tribal government;

15 (20) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing
16 28-10-103(3)(a);

17 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice
18 judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission
19 occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove
20 conduct that does not meet generally accepted standards;

21 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the
22 written certification that is and accompanying statements used to apply for a registry identification card pursuant
23 to [sections 1 through 21]."
24

25 **Section 23.** Section 37-3-343, MCA, is amended to read:

26 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
27 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
28 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

29 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to
30 the specialty in which the physician is board-certified or meets the current requirements to take the examination to
31 become board-certified and on which the physician bases the physician's application for a telemedicine license
32 pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification that is and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 21].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 24. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification that is and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 21];

~~(b)~~(c) fails to pay a required fee;

~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 25. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

1 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are
2 sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
3 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
4 court.

5 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the
6 consent of the youth court judge or county attorney after 10 years from the date of sealing.

7 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
8 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of
9 the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
10 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
11 offender pursuant to Title 46, chapter 23, part 5.

12 (5) After formal youth court records, law enforcement records, and department records are sealed, they are
13 not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a
14 new offense, to:

15 (a) those persons and agencies listed in 41-5-215(2); and

16 (b) adult probation professional staff preparing a presentence report on a youth who has reached the age of
17 majority.

18 (6) (a) When formal youth court records, law enforcement records, and department records are sealed under
19 subsection (1), the electronic records of the management information system maintained by the department of
20 public health and human services and by the department relating to the youth whose records are being sealed
21 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

22 (b) The department of public health and human services and the department shall disassociate the offense
23 and disposition information from the name of the youth in the respective management information system. The
24 offense and disposition information must be maintained separately and may be used only:

25 (i) for research and program evaluation authorized by the department of public health and human services or
26 by the department and subject to any applicable laws; and

27 (ii) as provided in Title 5, chapter 13.

28 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
29 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is
30 extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
31 only pursuant to subsection (5).

1 (b) The informal youth court records may be maintained and inspected only by youth court personnel upon a
2 new offense prior to the youth's 18th birthday.

3 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
4 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in
5 hard-copy form must be destroyed and any electronic records in the youth court management information system
6 must disassociate the offense and disposition information from the name of the youth and may be used only for
7 the following purposes:

8 (i) for research and program evaluation authorized by the office of the court administrator and subject to any
9 applicable laws; and

10 (ii) as provided in Title 5, chapter 13.

11 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
12 court records within the juvenile probation management information system. Electronic records of the youth court
13 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of
14 a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that
15 is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as
16 provided in subsection (2) of this section.

17 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court
18 records within the department's youth management information system. Electronic records of the department's
19 youth management information system may not be shared except as provided in subsection (5). If a person
20 authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make
21 only a physical copy of the record that is authorized and the person receiving the record shall destroy the record
22 after it has fulfilled its purpose or as provided in subsection (2) of this section.

23 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
24 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of
25 a youth within the facility.

26 (11) This section does not prohibit access to formal or informal youth court records, including electronic
27 records, for purposes of conducting evaluations as required by 41-5-2003.

28 (12) This section does not prohibit the office of court administrator, upon written request from the department
29 of public health and human services, from confirming whether a person applying for a registry identification card
30 pursuant to [section 4 or 5] is currently under youth court supervision."

31
32 **Section 26.** Section 45-9-203, MCA, is amended to read:

1 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e),
2 the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the
3 license and a copy of the sentencing order to the department of justice. The defendant may apply to the
4 department for issuance of a probationary license under 61-2-302.

5 (2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense
6 under this chapter, the court shall:

7 (a) at the time of sentencing, require the person to surrender the registry identification card; and

8 (b) notify the department of public health and human services of the conviction in order for the department to
9 carry out its duties under [section 12, 14]."

10 SECTION 27. Section 46-18-202, MCA, is amended to read:

11 **46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of the
12 following restrictions or conditions on the sentence imposed for in 46-18-201 that the judge considers necessary
13 to obtain the objectives of rehabilitation and the protection of the victim and society:
14

- 15 (a) prohibition of the offender's holding public office;
16 (b) prohibition of the offender's owning or carrying a dangerous weapon;
17 (c) restrictions on the offender's freedom of association;
18 (d) restrictions on the offender's freedom of movement;
19 (e) a requirement that the defendant provide a buccal sample for DNA testing for purposes of Title 44,
20 chapter 6, part 1, if an agreement to do so is part of the plea bargain;

21 (f) a requirement that the offender surrender any registry identification card issued as provided by
22 [section 9];

23 (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the
24 victim and society.

25 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
26 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
27 and participation in the supervised release program while serving that term. If the restriction is to be imposed, the
28 sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is
29 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
30 judgment must contain a statement of the reasons for the restriction.

31 (3) If a sentencing judge requires an offender to surrender a registry identification card issued as provided
32 by [sections 5] the court shall return the card to the department of public health and human services and provide
33 the department with information on the offender's sentence. The department shall revoke the card for the duration
34 of the sentence and shall return the card if the offender successfully completes the terms of the sentence before
35 the expiration date listed on the card.

36 Section 28. Section 50-46-201, MCA, is amended to read:

1 **50-46-201 Medical use of marijuana -- legal protections -- limits on amount -- presumption of**
2 **medical use.** (1) A person who possesses a registry identification card issued pursuant to 50-46-103 before the
3 effective date of [section 37(2)] may not be arrested, prosecuted, or penalized in any manner or be denied any
4 right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or
5 the department of labor and industry, if:

6 (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers,
7 or transports marijuana not in excess of the amounts allowed in subsection (2); or

8 (b) the qualifying patient uses marijuana for medical use.

9 (2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana
10 plants and 1 ounce of usable marijuana each.

11 (3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the
12 qualifying patient or caregiver:

13 (i) is in possession of a registry identification card; and

14 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under
15 subsection (2).

16 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
17 purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

18 (4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
19 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
20 department of labor and industry, for providing written certification for the medical use of marijuana to qualifying
21 patients.

22 (5) An interest in or right to property that is possessed, owned, or used in connection with the medical
23 use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the
24 forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

25 (6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as
26 provided to 40-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of
27 the medical use of marijuana as permitted under this chapter.

28 (7) Possession of or application for a registry identification card does not alone constitute probable cause
29 to search the person or property of the person possessing or applying for the registry identification card or
30 otherwise subject the person or property of the person possessing or applying for the card to inspection by any
31 governmental agency, including a law enforcement agency.

32 (8) A registry identification card or its equivalent issued by another state government to permit the
33 medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical
34 use of marijuana has the same force and effect as a registry identification card issued by the department.

35
36 **Section 29.** Section 50-46-202, MCA, is amended to read:

37 **50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.**

38 (1) The department shall maintain a confidential list of the persons to whom the department has issued registry

1 identification cards. Individual names and other identifying information on the list must be confidential and are not
2 subject to disclosure except to:

3 (a) authorized employees of the department as necessary to perform official duties of the department; or

4 (b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful
5 possessor of a registry identification card.

6 (4)(2) A person, including an employee or official of the department or other state or local government
7 agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the
8 person knowingly or purposely discloses confidential information in violation of 60-46-103 ~~this section~~.

9 (2)(3) A person convicted of disclosure of confidential information relating to medical use of marijuana
10 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both
11

12 **Section 30. Section 61-11-101, MCA, is amended to read:**

13 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of**
14 **licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the**
15 **suspension or revocation of the driver's license or commercial driver's license of the person by the department,**
16 **the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the**
17 **convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a**
18 **record of the conviction to the department. If the person does not possess a driver's license, the court shall**
19 **indicate that fact in its report to the department.**

20 **(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance**
21 **regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances,**
22 **shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the**
23 **conviction becomes final. The court may recommend that the department issue a restricted probationary license**
24 **on the condition that the individual comply with the requirement that the person attend and complete a chemical**
25 **dependency education course, treatment, or both, as ordered by the court under 61-8-732.**

26 **(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action**
27 **suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon**
28 **which it is based to the department within 5 days on forms furnished by the department.**

29 **(4) A conviction becomes final for the purposes of this part upon the later of:**

30 **(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;**

31 **(b) forfeiture of bail that is not vacated; or**

32 **(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended**
33 **execution of a sentence.**

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

NEW SECTION. Section 31. Emergency Rulemaking. The department of public health and human services shall adopt emergency rules as provided in 2-4-809 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 21] beginning June 1, 2011

NEW SECTION. Section 32. Repealer. The following sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees.

NEW SECTION. Section 33. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this act section 38(2)] are valid until the expiration date listed on the card.

(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 31].

(b) The department may until October 1, 2011, issue cards to people applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition.

(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before July 1, 2011, [the effective date of section 38(2)] may not be in possession of marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 21] as allowed in subsection (2). Before July 1, 2011, ~~the~~ a caregiver who has not obtained a registry identification card pursuant to [sections 1 through 21] shall ~~take the items~~ any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

NEW SECTION. Section 34. Codification instruction. [Sections 1 through 21] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 21].

COORDINATION SECTION. Section 35. Coordination instruction. ~~(1) If both House Bill No. 161 and [this act] are passed and approved, then this act is void.~~

~~(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 205 is void.~~

NEW SECTION. Section 36. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423].

NEW SECTION. Section 37. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 38. Effective date. ~~(1) [This act]~~ Except as provided in subsection (2), this act is effective July 1, 2011.

(2) [Sections 19, 28, 29, 31, the repeal of 50-46-102 provided for in section 32, sections 33 and 35] and this section are effective on passage and approval.

- END -

Effective on passage and approval:

Section 19: Advertising Prohibited
Section 28: Amendments to 50-46-201
Section 29: Amendments to 50-46-202
Section 31: Emergency rulemaking
Section 32: Repeal of 50-46-103
Section 33: Transition
Section 35: Code commissioner instructions

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EXHIBIT 2
DATE 4/18/11
SB423

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 18, 2011 (7:48am)

1. Title, page 1, line 8.

Following: "INDIVIDUALS;"

Insert: "REQUIRING REPORTING; ALLOWING INSPECTIONS;"

2. Title, page 1, line 12.

Following: "45-9-203,"

Insert: "46-18-202, 50-46-201, 50-46-202,"

3. Page 1, line 28.

Strike: "17"

Insert: "21"

4. Page 1, line 30.

Strike: "17"

Insert: "21"

5. Page 2, line 4.

Strike: "17"

Insert: "21"

Strike: "and"

6. Page 2.

Following: line 4

Insert: "(c) allow individuals to assist a limited number of
registered cardholders with the cultivation and manufacture
of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of
marijuana and marijuana-infused products and inspection
requirements for premises; and"

Renumber: subsequent subsection

7. Page 2, line 8.

Strike: "17"

Insert: "21"

8. Page 2.

Following: line 9

Insert: "(1) "Correctional facility or program" means a facility
or program that is described in 53-1-202 and to which a
person may be ordered by any court of competent
jurisdiction.

Renumber: subsequent subsections

9. Page 2, line 10 through line 11.

Following: "means" on line 10

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: ", at a minimum:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's primary care physician; and

(ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the LEGISLATURE AFTER REVIEWING RECOMMENDATIONS OF THE ADVISORY BOARD PROVIDED FOR IN [SECTION 3]."

Renumber: subsequent subsections

10. Page 2.

Following: line 14

Insert: "(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 21] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's primary care or referral physician."

Renumber: subsequent subsections

11. Page 2, line 17.

Strike: "Physician"

Insert: "Primary care physician"

Following: "who"

Insert: ": (a) "

Following: "chapter 3"

Strike: ", and"

Insert: "; (b) "

12. Page 2, line 18.

Following: "Montana"

Insert: "; and (c) has a bona fide professional relationship with the person applying to be a registered cardholder"

13. Page 2, line 20.

Strike: "cultivate," through "use by"

Insert: "assist"

Following: "cardholder"

Insert: "as allowed under [sections 1 through 21]"

14. Page 2, line 21.

Following: "cardholder's"

Insert: "primary care or referral"

15. Page 2.

Following: line 21

Insert: "(12) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's primary care physician has referred the patient for physical examination and medical assessment."

Renumber: subsequent subsections

16. Page 2.

Following: line 23

Insert: "(14) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder."

Renumber: subsequent subsections

17. Page 2, line 25.

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

18. Page 2, line 27.

Strike: "17"

Insert: "21"

19. Page 2.

Following: line 29

Insert: "(17) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild."

Renumber: subsequent subsections

20. Page 3, line 2.

Following: "means"

Strike: "the standard" through "examiners"

Insert: ", at a minimum:

(a) the following activities when undertaken by a patient's primary care physician or referral physician if the primary care physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (i) obtaining the patient's medical history;
- (ii) performing a relevant physical examination;
- (iii) reviewing prior treatment and treatment response for the debilitating medical condition;
- (iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;
- (v) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (vi) monitoring the response to treatment and possible adverse effects; and
- (vii) creating and maintaining patient records that remain with the physician; or

(b) the following activities undertaken by the second physician who is providing written certification for a minor:

- (i) obtaining the patient's medical history;
- (ii) reviewing prior treatment and treatment response for the debilitating medical condition;
- (iii) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition; and
- (iv) creating and maintaining patient records that remain with the physician."

21. Page 3, line 7.

Strike: "treating"

Following: "primary care or referral"

22. Page 3, line 8.

Strike: "6"

Insert: "7"

23. Page 3, line 14.

Strike: "17"

Insert: "21"

24. Page 3, line 15.

Following: "providers"

Insert: "or marijuana-infused products providers"

25. Page 3, line 18.

Strike: "17"

Insert: "21"

26. Page 3, line 21.

Following: "provider"

Insert: "or marijuana-infused products provider"

27. Page 3, line 21.

Strike: "17"

Insert: "21"

28. Page 3, line 25.

Following: "provider"

Insert: "or marijuana-infused products provider"

29. Page 3, line 28.

Strike: "or for"

Insert: ", "

Following: "provider"

Insert: ", or a marijuana-infused products provider"

30. Page 4, line 2.

Strike: "17"

Insert: "21"

Strike: "15"

Insert: "30"

31. Page 4, line 4.

Strike: "15"

Insert: "5"

32. Page 4, line 6.

Following: "unless"

Insert: ": (a) a physician has provided a written certification
stating that a card is valid for a shorter period of time;
or
(b) "

33. Page 4, line 7.

Following: "providers"

Insert: "or marijuana-infused products providers"

Following: "provider's"

Insert: "or marijuana-infused products provider's"

34. Page 4, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

35. Page 4, line 10.

Following: "physician"

Strike: "or"

Following: "provider"

Insert: ", or marijuana-infused products provider"

36. Page 4, line 19.

Strike: "and"

Insert: ", "

Following: "providers"

Insert: ", and marijuana-infused products providers"

37. Page 4, line 20.

Following: "cardholder"

Strike: "or"

Insert: ", "

Following: "providers"

Insert: ", or marijuana-infused products providers"

Strike: "live"

Insert: "are located"

38. Page 4, line 21.

Strike: "14"

Insert: "16"

39. Page 4, line 28.

Following: "providers"

Insert: "and marijuana-infused products providers"

40. Page 5, line 1.

Strike: "or"

Insert: ", "

Following: "physicians, "

Insert: "providers, or marijuana-infused products providers"

41. Page 5, line 2.

Insert: "(11) The board of medical examiners shall report annually to the legislature, as provided in 37-3-203, on the number and types of complaints the board has received involving physician practices in providing written

certification for the use of marijuana."

42. Page 5, line 4.

Strike: "(3)"

Insert: "(4)"

43. Page 5, line 12.

Following: "provider"

Insert: "or a marijuana-infused products provider"

44. Page 5.

Following: line 12

Insert: "(f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;"

Renumber: subsequent subsections

45. Page 5, line 13.

Strike: "treating"

Insert: "primary care or referral"

46. Page 5, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

47. Page 5, line 19.

Strike: "a statement"

Insert: "the written certification and accompanying statements"

Strike: "treating"

Insert: "primary care or referral"

Strike: "6"

Insert: "7"

48. Page 5, line 21.

Strike: "(2)"

Insert: "(1)"

49. Page 5, line 22.

Following: "decisions"

Insert: ": (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
(b) "

50. Page 5, line 23.

Strike: "(a)"

Insert: "(i)"

Strike: "the minor's physicians"

Insert: "two physicians have"
Renumber: subsequent subsections

51. Page 5, line 26.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

52. Page 5, line 27.

Following: "minor's"

Insert: "marijuana-infused products"

53. Page 5, line 29.

Strike: "and"

54. Page 5.

Following: line 29

Insert: "(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;"

55. Page 5, line 30.

Strike: "undergoes a name-based"

Insert: "submits fingerprints to facilitate a fingerprint and"

Following: "check"

Insert: "by the department of justice and federal bureau of investigation"

56. Page 6, line 1.

Following: "check"

Insert: "and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5]."

(F) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.

(3) The application for a minor must include written certification and the statements required under [section 7] from:

(a) the primary care physician who is recommending marijuana for use by the minor; and

(b) a second physician who has conducted a comprehensive review of the minor's medical record as maintained by the minor's primary care physician and who is recommending marijuana for use by the minor."

Renumber: subsequent subsections

57. Page 6, line 3 through line 5.

Following: "or" on line 3

Strike: "1"

Insert: "or"

Following: "court" on line 3

Strike: "A DISTRICT COURT" through "PROGRAM" on line 5

58. Page 6, line 6.

Following: "provider"

Insert: "or marijuana-infused products provider"

59. Page 6, line 8.

Strike: "9"

Insert: "10"

60. Page 6, line 12.

Following: "provider"

Strike: "or to"

Insert: ", a marijuana-infused products provider, or"

61. Page 6, line 16.

Strike: "Providers"

Insert: "Provider types"

Following: "limitations"

Insert: "provider activities --"

62. Page 6, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

63. Page 6, line 23.

Following: "cardholder"

Insert: "that indicates whether the person will act as the
cardholder's provider or marijuana-infused products
provider"

64. Page 6.

Following: line 23

Insert: "(e) a statement, on a form prescribed by the department,
that the person will not divert to any other person the
marijuana that the person cultivates or manufactures for a
registered cardholder;"

Renumber: subsequent subsections

65. Page 6, line 24.

Strike: "indicating whether"

Insert: "acknowledging that"

66. Page 6, line 25.

Following: "at"

Insert: "only one location and indicating whether the location
will be"

Following: "; and"

Insert: ". The location must be identified by street address."

67. Page 6, line 28.

Strike: "as a provider"

Insert: "under this section"

68. Page 6, line 30 through page 7, line 2.

Following: "court" on page 6, line 30

Strike: "A" through "PROGRAM" on page 7, line 2

69. Page 7, line 9.

Following: "provider" in both places

Insert: "or marijuana-infused products provider" in both places

70. Page 7, line 10.

Following: "provider"

Insert: "or marijuana-infused products provider"

71. Page 7, line 12.

Strike: "17"

Insert: "21"

72. Page 7.

Following: line 13

Insert: "(5) A provider may, as allowed by the department by rule, transfer seedlings, cuttings, or clones to another provider or a registered cardholder who has indicated that the registered cardholder will cultivate and manufacture the cardholder's marijuana."

ReNUMBER: subsequent subsections

73. Page 7, line 18.

Strike: "provider"

Insert: "person registered under this section"

Following: "only at"

Insert: "one of the following locations"

74. Page 7, line 19.

Following: "provider"

Insert: "or marijuana-infused products provider"

75. Page 7, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

76. Page 7, line 24.

Following: "provider"

Insert: "or marijuana-infused products provider"

77. Page 7, line 25.

Insert: "NEW SECTION. Section 6. Marijuana-infused products provider -- requirements -- allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

 (a) prepare marijuana-infused products at a premises registered with the department that is used exclusively for the manufacture and preparation of marijuana-infused products; and
 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

 (2) A marijuana-infused products provider:

 (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
 (b) may not provide a cardholder with marijuana in a form that may be used for smoking.

 (3) All registered premises on which marijuana-infused products are manufactured must meet:

 (a) the sanitary standards for marijuana-infused product preparation adopted by the department; and
 (b) any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

 (4) The department shall determine the maximum amount and forms of marijuana that a marijuana-infused products manufacturer may possess for conversion to marijuana-infused products.

 (5) A marijuana-infused product must be prepackaged and labeled in accordance with rules adopted by the department to indicate at a minimum that:

 (a) the product contains marijuana;
 (b) the product is manufactured without any regulatory oversight for efficacy; and
 (c) health risks may be associated with the consumption or use of the product.

 (6) Marijuana and marijuana-infused products may not be consumed on a registered premises.

 (6) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

78. Page 7, line 26.

Strike: "Physician statement"

Insert: "Written certification -- accompanying statements"

79. Page 7, line 27.

Following: "must"

Insert: "be made on a form prescribed by the department and signed and dated by the physician. The written certification must"

80. Page 7.

Following: line 27

Insert: "(a) include the physician's name, license number, office address and telephone number on file with the board of

medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A physician who is providing written certification for a qualifying patient 18 years of age or older or who is the primary care physician for a minor applying for a registry identification card shall provide a statement initialed by the physician that must:"

81. Page 7, line 28.

Following: "is"

Insert: ": (i)"

Strike: "treating"

Insert: "primary care or referral physician"

82. Page 7, line 29.

Following: "physician's"

Insert: "ongoing"

Strike: "and supervision"

Insert: "as part of a bona fide professional relationship with the person; or

(ii) is the person's referral physician;"

83. Page 8.

Following: line 2

Insert: "(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after conducting a comprehensive medical history and physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;"

Renumber: subsequent subsections

84. Page 8.

Following: line 4

Insert: "(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;"

Renumber: subsequent subsections

85. Page 8.

Following: line 7

Insert: "(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;"

Renumber: subsequent subsections

86. Page 8, line 10.

Strike: "and"

87. Page 8, line 12.

Strike: "treating"

Insert: "primary care or referral"

88. Page 8, line 13.

Strike: "supervise"

Insert: "monitor"

Following: "person's"

Insert: "response to the"

Strike: "treatment"

Insert: "; and"

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the primary care physician as required pursuant to [sections 1 through 21];

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct"

Renumber: subsequent subsection

89. Page 8, line 18.

Strike: the first "or"

Insert: ", "

Following: "provider"

Insert: "marijuana-infused products provider"

Strike: "cardholder's or provider's"

Insert: "person's"

90. Page 8, line 24.

Strike: "10"

Insert: "11"

91. Page 8, line 29.

Following: "provider"

Insert: "or marijuana-infused products provider"

92. Page 9, line 1.

Following: "provider"

Insert: "or marijuana-infused products provider"

93. Page 9.

Following: line 11

Insert: "(c) A marijuana-infused products provider may possess the number of plants and seedlings and the amount of usable marijuana allowed by the department by rule pursuant to [section 6]."

94. Page 9, line 12.

Strike: "10"

Insert: "11"

95. Page 9, line 13.

Strike: "17"

Insert: "21"

96. Page 9, line 16.

Strike: "registered cardholder or provider"

Insert: "individual"

97. Page 9, line 26.

Strike: "17"

Insert: "21"

98. Page 9, line 29.

Strike: "17"

Insert: "21"

99. Page 10, line 3.

Strike: "Possession"

Insert: "Except as provided in [section 13], possession"

100. Page 10, line 11.

Insert: "(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 21] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 21].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

101. Page 10, line 12.

Strike: "17"

Insert: "21"

102. Page 10, line 22.

Strike: "in"

Insert: "when ordered by any court of competent jurisdiction into
"

Following: "facility"

Insert: "or program"

Strike: ", INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203"

103. Page 10.

Following: line 22

Insert: "(vii) if a court has imposed restrictions on the
cardholder's use pursuant to 46-18-202;"

Renumber: subsequent subsections

104. Page 10, line 25.

Following: "or"

Insert: "or"

105. Page 10, line 27 through line 30.

Strike: ";OR" on line 27 through "PROGRAM" on line 30

106. Page 11, line 1.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

107. Page 11, line 5.

Strike: "17"

Insert: "21"

108. Page 11, line 8 through line 9.

Strike: "person with" on line 8 through "condition" on line 9

Insert: "registered cardholder"

109. Page 11, line 13.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

110. Page 11, line 15.

Strike: "17"

Insert: "21"

111. Page 11, line 20.

Strike: "17"

Insert: "21"

Following: "provider"

Insert: "or marijuana-infused products provider"

112. Page 11, line 21.

Following: "provider"

Insert: "or marijuana-infused products provider"

113. Page 11, line 22 through page 23.

Strike: "registered" on line 22 through "provider" on line 23

Insert: "person with a valid registry identification card"

114. Page 11, line 26.

Following: "cardholder"

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

115. Page 12, line 7.

Following: "regulate."

Insert: "(1)"

116. Page 12, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

117. Page 12, line 12.

Insert: "(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses."

Insert: "NEW SECTION. Section 13. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct frequent, unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders and other providers or marijuana-infused products providers. The records must be open for inspection by the department and state or local law enforcement agencies at any time.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 21].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider

shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of:

(a) registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder; and

(b) the number of seedlings transferred to another provider, marijuana-infused products provider, or registered cardholder and the dates on which the transfers occurred."

118. Page 12, line 16.

Strike: "cardholder's"

Insert: "person's"

119. Page 12, line 18.

Following: "(ii)"

Insert: "mature"

Strike: "or"

Insert: ", seedlings,"

Following: "usable marijuana"

Insert: ", or marijuana-infused products"

120. Page 12, line 19.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "17"

Insert: "21"

121. Page 12, line 21.

Strike: "17"

Insert: "21"

122. Page 12, line 26.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "felony"

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Insert: "a term"

123. Page 12, line 27.

Strike: "less than"

Insert: "to exceed"

Strike: "or not more than 5 years"

Strike: "\$50,000"

Insert: "\$1,000"

124. Page 12, line 28.

Following: "6"

Insert: "7"

125. Page 12, line 29 and line 30.

Strike: "felony" on line 27

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Strike: "not less than"

Insert: "a term not to exceed"

Strike: "or not more" on line 29 through "years" on line 30

Strike: "\$50,000"

Insert: "\$1,000"

126. Page 13, line 2.

Following: "A"

Insert: "Except as provided in 37-2-203, a"

127. Page 13, line 5.

Strike: "17"

Insert: "21"

128. Page 13, line 10 through line 11.

Strike: "debilitating" on line 11 through "provider" on line 11

Insert: "registry identification card"

129. Page 13, line 14.

Strike: "17"

Insert: "21"

130. Page 13, line 17.

Strike: "17"

Insert: "21"

131. Page 13, line 18.

Following: "possession of"

Insert: "mature"

Following: "plants"

Insert: "or seedlings"

132. Page 13, line 19.

Following: "plants"

Insert: "seedlings"

133. Page 13, line 20.

Insert: "NEW SECTION. Section 19. Advertising prohibited.

Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media."

Insert: "NEW SECTION. Section 20. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 21].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 21]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Renumber: subsequent sections

134. Page 13, line 22.

Strike: "17"

Insert: "21"

135. Page 13, line 25.

Following: "providers" on line 25

Insert: "and marijuana-infused products providers"

Following: "cards"

Strike: "for" on line 25 through "cardholders" on line 26

136. Page 13, line 29.

Strike: "section"

Insert: "sections 4 and"

Following: ";

Strike: "and"

137. Page 13.

Following: line 29

Insert: "(d) the number of plants and seedlings and amount of usable marijuana that a marijuana-infused products provider may possess; and"

138. Page 13, line 30.

Strike: "17"

Insert: "21"

139. Page 14, line 2.

Strike: "17"

Insert: "21"

140. Page 15, line 25.

Strike: "that is"

Insert: "and accompanying statements"

141. Page 15, line 26.

Strike: "17"

Insert: "21"

142. Page 16, line 10.

Strike: "that is"

Insert: "and accompanying statements"

143. Page 16, line 11.

Strike: "that is"

Insert: "accompanying statements"

Strike: "17"

Insert: "21"

144. Page 16, line 23.

Strike: "17"

Insert: "21"

145. Page 19, line 18.

Strike: "12"

Insert: "14"

146. Page 19, line 19.

Insert: "Section 27. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

- (a) prohibition of the offender's holding public office;
- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued as provided by [section 3];

(f)-(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the

offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued as provided by [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

{ Internal References to 46-18-202:

41-5-208 *x 44-6-102 x 44-6-103x 46-18-207x
46-23-201 x 46-23-210x 53-1-203x }"

Insert: "Section 28. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of [section 37(2)]] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use

of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

{ Internal References to 50-46-201: None. }

Insert: "Section 29. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

{ Internal References to 50-46-202: None. }

147. Page 20, line 29.

Insert: "NEW SECTION. **Section 31. Emergency rulemaking.** The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 21] beginning June 1, 2011."

148. Page 21, line 13.

Strike: "this act"

Insert: "section 38(2)"

149. Page 21.

Following: line 14

Insert: "(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 31].

(b) The department may until October 1, 2011, issue cards to people applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptom's of the cardholder's debilitating medical condition."

Renumber: subsequent subsection

150. Page 21, line 15 through line 16.

Strike: "before" on line 15 through "2011," on line 16

Insert: "[the effective date of section 38(2)]"

Following: "possession of"

Insert: "mature"

151. Page 21, line 17.

Following: the first "2011"

Insert: ", if the person has not obtained a registry
identification card pursuant to the provisions of [sections
1 through 21] as allowed in subsection (2)"

Following: "2011,"

Strike: "the"

Insert: "a"

Following: "caregiver"

Insert: "who has not obtained a registry identification card
pursuant to [sections 1 through 21]"

Strike: "items"

Insert: "any mature marijuana plants, seedlings, cuttings,
clones, usable marijuana, or marijuana-related products
still in the caregiver's possession"

152. Page 21, line 21.

Strike: "17"

Insert: "21"

153. Page 21, line 23.

Strike: "17"

Insert: "21"

154. Page 21, line 25 through line 27.

Strike: "(1) If" on line 25 through "(2)" on line 27

155. Page 22, line 7.

Strike: "7"

Insert: "11"

156. Page 22, line 13.

Strike: "date."

Insert: "dates. (1)"

Strike: "[This act]"

Insert: "Except as provided in subsection (2), [this act]"

157. Page 22, line 14.

Insert: "(2) [Sections 19, 28, 29, 31 the repeal of 50-46-103
provided for in section 32, sections 33 and 35], and this
section are effective on passage and approval."

- END -

Summary of Recent Statements by the U.S. Department of Justice

April 18, 2011

4/18/11
SB923

Background

The U.S. Department of Justice has taken steps in at least two instances this year to clarify its October 2009 memo on prosecution of marijuana cases in states that have enacted medical marijuana laws. The Department has provided written guidance to the both city of Oakland and the state of Washington as they governments considered changes to local and state marijuana-related laws.

In California

The City of Oakland last summer approved an ordinance to license up to four large-scale indoor marijuana-growing operations. The original ordinance put no size limit on the businesses, but required that they have \$3 million worth of insurance, hire security, pay a \$211,000 annual permit fee, and pay taxes and back taxes.

The city suspended its licensing plans in December in order to consider revisions to the ordinance, based on legal concerns that were raised by the Alameda County District Attorney. City Attorney John Russo in January asked the Department of Justice for further guidance

In Washington

On April 13, 2011, Washington Governor Christine Gregoire asked the Department of Justice for clarification of the agency's position, in light of the 2011 Legislature's passage of a bill to allow for state licensing and inspection of marijuana producers, processors, and dispensers.

Washington currently allows people with qualifying medical conditions to use marijuana for medical purposes and a caregiver to provide the marijuana, but — like Montana — does not have a licensing or regulatory process for growers and dispensaries. SB 5073 would create that structure in Washington.

Federal Response

U.S. attorneys for the respective jurisdictions sent virtually identical letters stating that the Justice Department remains committed to enforcing the federal Controlled Substances Act (CSA). Marijuana is Schedule 1 controlled substance; under the federal law, growing, distributing, and possessing marijuana is a federal crime.

Justice Department officials informed both Governor Gregoire and City Attorney Russo that the department would "vigorously" enforce the federal law against individuals and organizations that participate in unlawful manufacturing and distribution of marijuana, even when those activities are allowed under state law. The letters indicated that the Justice Department may take legal action — including civil fines or criminal prosecution — related to:

- manufacturing or distributing marijuana or possessing marijuana with the intent to distribute;
- leasing, renting, maintaining, or using property to manufacture, store, or distribute marijuana; and
- financial activity involving the movement of drug proceeds.

In addition, the Justice Department told Governor Gregoire that state employees who conduct activities required under the Washington legislation would not be immune from liability under the CSA.



U.S. Department of Justice

United States Attorney

Eastern District of Washington

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Honorable Christine Gregoire
Washington State Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 14, 2011

Re: Medical Marijuana Legislative Proposals

Dear Honorable Governor Gregoire:

We write in response to your letter dated April 13, 2011, seeking guidance from the Attorney General and our two offices concerning the practical effect of the legislation currently being considered by the Washington State Legislature concerning medical marijuana. We understand that the proposals being considered by the Legislature would establish a licensing scheme for marijuana growers and dispensaries, and for processors of marijuana-infused foods among other provisions. We have consulted with the Attorney General and the Deputy Attorney General about the proposed legislation. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such a licensing scheme.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Honorable Christine Gregoire

April 14, 2011

Page 2

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);
- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);
- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);
- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and
- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA. Potential actions the Department could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any

Honorable Christine Gregoire

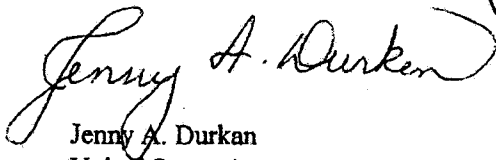
April 14, 2011

Page 3

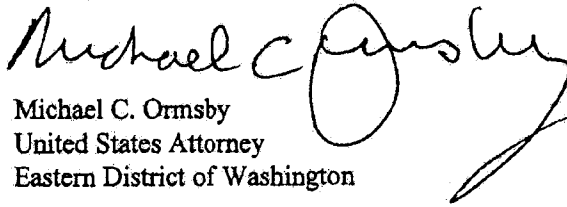
property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

We hope this letter assists the State of Washington and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,



Jenny A. Durkan
United States Attorney
Western District of Washington



Michael C. Ormsby
United States Attorney
Eastern District of Washington

COMPARISON OF SENATE AND HOUSE VERSIONS OF SB 423

EXHIBIT 4
SB 423

Topic	Senate Version	House Version	Draft Amendments
Medical conditions	- Specified in statute (HB 68 list) - Medical Advisory Board to recommend additions to Legislature	Determined by treating physician; no list established in statute	- Uses Senate version of list of debilitating medical conditions - No direction yet on how to add to list
Chronic pain	- Required written certification from two doctors - Required submission of objective proof of the source of the pain	Not specifically addressed because condition was not specifically listed	- Requires written certification from one doctor - Requires submission of objective proof of the source of the pain
Patients	- Registered by DPHHS - Required two physicians to certify for minors - Couldn't be in custody of or under supervision of DOC, a youth court, a district court, or a court of limited jurisdiction (Last two types of courts amended in by committee)	- Registered by DPHHS - Requires one physician to certify for minors - Can't be in custody of DOC, a youth court, a district court, a court of limited jurisdiction, or participating in any state, county, or local government supervision or enforcement program (All but DOC and youth court added as floor amendment)	- Registered by DPHHS - Requires two physicians to certify for minors - Minors may use only marijuana-infused products; may not smoke - Can't be under supervision of DOC or youth court
Physicians	- Defined standard of care for physicians who provide written certification - Required physicians to submit additional statements with written certification - Prohibited use of electronic means, including telemedicine, to obtain information for written certification - Required DPHHS to report to Board of Medical Examiners the name of any physician providing more than 25 written certifications per year - Physicians couldn't have a financial affiliation with a marijuana business	- Allows Board of Medical Examiners to define by rule the standard of care required for providing written certification - Requires physicians to submit additional statements - Prohibits use of electronic means, including telemedicine, to obtain information for written certification - Requires DPHHS to report the name of any physician providing more than 15 written certifications per year	- Defines standard of care that must be provided when providing written certification (Senate version) - Requires additional statements, based on both Senate and House versions - Prohibits use of electronic means, including telemedicine, to obtain information for written certification - Requires DPHHS to report the name of any physician providing more than 15 written certifications per year

Distribution Model	• Allowed for state licensure of growers, infused-products manufacturers, personal production assistants, couriers, and their employees • Cardholders could choose whether to grow or manufacture marijuana on their own or obtain it from a grower or infused-products manufacturer, or both (Floor amendment allowed option to both grow and obtain) • No storefront dispensaries or offices • No direct sales at a licensed premise • Marijuana or products delivered by a courier, who had to notify law enforcement of the deliveries	• Cardholders must choose whether to grow or manufacture their own marijuana or name a provider • Allows a provider to grow and manufacture marijuana for one to three registered cardholders • Providers may grow for up to three people ONLY if two of the people are related to each other by the second degree of kinship by blood or marriage • Marijuana may be grown only at the cardholder's or provider's property and at a rental property only with written permission of the landlord • Providers and cardholders may not share growing locations unless the cardholders are related by the second degree of kinship	• Cardholders must choose whether to grow or manufacture their own marijuana or name a provider or marijuana-infused products provider • Adds infused-products provider as a provider type • Providers may grow and manufacture marijuana for up to three registered cardholders • Providers may grow for up to three people ONLY if two are related to each other by the second degree of kinship by blood or marriage • Marijuana may be grown only at the cardholder's or provider's property and at a rental property only with written permission of the landlord • Providers and cardholders may not share growing locations unless the cardholders are related by the second degree of kinship
Licensing procedures	• Named DOLI as the licensing agency for all types of licensees • Required fingerprint background checks for all licensees, including parents of minors • Could not be licensed if had a felony conviction, a conviction for any drug offense, failed to pay taxes or child support, or were in the custody of or under the supervision of DOC, a youth court, a district court, or court of limited jurisdiction (last two types of court amended in during committee action)	• Providers register with DPHHS • Requires fingerprint background check for most providers • Parents of minors undergo a name-based background check • Can't be registered if have a felony conviction, any drug conviction, haven't paid taxes or child support, or are in the custody of DOC, a youth court, a district court, a court of limited jurisdiction, or under the supervision of any court or local law enforcement program (All but DOC and youth court added as floor amendment)	• Providers register with DPHHS • Requires fingerprint background check for all providers, including parents or legal guardians of minors • Can't be licensed if have a felony conviction, a conviction for any drug offense, haven't paid taxes or child support, or are under the supervision of DOC or a youth court

Payment	• Licensees other than personal production assistants could charge on a reimbursement-for-costs basis • Personal production assistants could not be compensated	• Providers may not be compensated	• Providers and marijuana-infused providers may not be compensated
Amounts	• Cardholders could possess 4 mature plants, 12 seedlings, and 2 ounces of usable marijuana • Growers could possess 95 mature plants and the number of seedlings and ounces set by DOLI in rule • Infused-products manufacturers could possess an amount determined by DOLI in rule • Personal production assistants could not possess marijuana • Growers or manufacturers could provide a maximum of 2 ounces of usable marijuana to each cardholder in a 30-day period	• Registered cardholders may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana • A provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each cardholder who has named the person as a provider • A cardholder who names a provider may not also grow marijuana	• Registered cardholders may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana • A provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each cardholder who has named the person as a provider • A cardholder who names a provider may not also grow marijuana • DPHHS will determine by rule the number of plants and amount of usable marijuana that an infused-products provider may possess
Transfers	• Transfers among growers allowed (floor amendment)	• Transfers not allowed	• Transfers among providers allowed; amounts not specified
Miscellaneous	• Advertising and signage prohibited • DOLI to establish hotline for reporting suspected abuse		• Prohibits advertising • DPHHS to establish a hotline for reporting suspected abuse • Gives sentencing judges explicit authority to revoke a registry identification card • Defines correctional facility or program and prohibits use by a registered cardholder who is ordered into a correctional facility or program



EXPORT 5
DATE 4/18/11
HR 58425

Medical Marijuana Program (MMP)
March 2011 Registry Information

Patient Summary	March 2011	February 2011
Patients with current enrollments	29,948	28,739
Deceased Patients	54	52
Patients with no caregiver	1,143	990

Caregiver Summary	March 2011	February 2011
Caregivers associated with patients with current enrollments	4,848	4,833
Deceased Caregivers	5	4

Physician Summary	March 2011	February 2011
Physicians associated with patients with current enrollments	360	353

Medical Marijuana Registry
Patients with Current Enrollments

	<u>Patients</u>	<u>Caregivers</u>
Beaverhead	233	19
Big Horn	206	14
Blaine	81	7
Broadwater	160	34
Carbon	247	42
Carter	3	0
Cascade	1671	262
Chouteau	57	8
Custer	274	23
Daniels	12	1
Dawson	107	20
Deer Lodge	277	14
Fallon	18	0
Fergus	213	45
Flathead	3636	711
Gallatin	3960	686
Garfield	7	0
Glacier	147	5
Golden Valley	21	2
Granite	55	11
Hill	387	32
Jefferson	343	46
Judith Basin	14	5
Lake	695	112
Lewis & Clark	2194	281
Liberty	16	4
Lincoln	639	158
Madison	393	58
McCone	6	3
Meagher	51	7
Mineral	239	46
Missoula	4451	739
Musselshell	136	20
Park	785	182
Petroleum	10	3
Phillips	45	10
Pondera	80	21
Powder River	15	0
Powell	181	31
Prairie	14	5
Ravalli	1599	340
Richland	161	11
Roosevelt	76	7
Rosebud	217	8
Sanders	369	92
Sheridan	67	8
Silver Bow	1196	124

*Caregiver count includes only those caregivers who are currently associated with a current enrollment.

Medical Marijuana Registry
Patients with Current Enrollments

	<u>Patients</u>	<u>Caregivers</u>
Stillwater	132	19
Sweet Grass	72	8
Teton	96	10
Toole	70	5
Treasure	11	1
Valley	94	18
Wheatland	37	5
Wibaux	9	1
Yellowstone	3532	524
Total:	29817	4848
Out Of State:	131	0

Medical Marijuana Registry
Active Enrollments by Condition

Cachexia or Wasting Syndrome	809
Cancer, Glaucoma or HIV (AIDS)	926
Multiple Sclerosis	33
Seizures	290
Severe Nausea	526
Severe Seizures and/or Nausea and/or Muscle Spasms	52
Severe or Chronic Pain	22219
Severe or Chronic Pain & Muscle Spasms	3665
Severe or Chronic Pain & Nausea	1599
Severe or Chronic Pain & Seizures	217
Severe or Chronic Pain, Nausea & Muscle Spasms	548
Severe or Persistent Muscle Spasms	574

Patient Distribution by AgePatients between the ages of 0 and 90
In increments of: 10

53	0.18%	Minors less than 18 years of age.
1185	3.96%	Patients between 18 and 21 years of age
7507	25.07%	Patients between 21 and 30 years of age
6202	20.71%	Patients between 31 and 40 years of age
5734	19.15%	Patients between 41 and 50 years of age
6662	22.24%	Patients between 51 and 60 years of age
2212	7.39%	Patients between 61 and 70 years of age
313	1.05%	Patients between 71 and 80 years of age
68	0.23%	Patients between 81 and 90 years of age
13	0.04%	Patients over 90 years of age.
29949		

Average Age

41

Caregiver and Patient Distribution

In increments of: 10

2434	Caregivers with 1 Patient
697	Caregivers with 2 Patients
349	Caregivers with 3 Patients
257	Caregivers with 4 Patients
163	Caregivers with 5 Patients
127	Caregivers with 6 Patients
85	Caregivers with 7 Patients
74	Caregivers with 8 Patients
63	Caregivers with 9 Patients
55	Caregivers with 10 Patients
297	Caregivers with 11 to 20 Patients
81	Caregivers with 21 to 30 Patients
42	Caregivers with 31 to 40 Patients
26	Caregivers with 41 to 50 Patients
18	Caregivers with 51 to 60 Patients
16	Caregivers with 61 to 70 Patients
14	Caregivers with 71 to 80 Patients
8	Caregivers with 81 to 90 Patients
8	Caregivers with 91 to 100 Patients
34	Caregivers with more than 100 Patients
4848	

Physician and Patient Distribution

In increments of: 10

104	Physicians with 1 Patient
51	Physicians with 2 Patients
27	Physicians with 3 Patients
28	Physicians with 4 Patients
18	Physicians with 5 Patients
14	Physicians with 6 Patients
12	Physicians with 7 Patients
5	Physicians with 8 Patients
10	Physicians with 9 Patients
5	Physicians with 10 Patients
29	Physicians with 11 to 20 Patients
10	Physicians with 21 to 30 Patients
6	Physicians with 31 to 40 Patients
3	Physicians with 41 to 50 Patients
2	Physicians with 51 to 60 Patients
1	Physicians with 61 to 70 Patients
2	Physicians with 71 to 80 Patients
1	Physicians with 91 to 100 Patients
32	Physicians with more than 100 Patients
360	

*Only groupings with counts greater than 0 are shown on this report.

SECRET
DATE 4/18/11
SB423

Amendments to Senate Bill No. 423
Reference Copy

Requested by Representative Diane Sands

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 18, 2011 (9:44am)

1. Page 7, line 9 through line 11.

Strike: "only on" on line 9 through "marriage" on line 11

Insert: "up to five registered cardholders"

2. Page 7.

Following: line 11

Insert: "(b) If the provider is a registered cardholder, the provider's card must be included as part of the total count of cards held."

3. Page 7.

Following: line 13

Insert: "(5) A person registered under this section may be reimbursed up to \$1,000 per year by each cardholder for whom the person cultivates or manufactures marijuana."

4. Page 11, line 3.

Following: "hospice"

Insert: "or residential care facility"

5. Page 11, line 20.

Following: "marijuana"

Insert: "unless the provider is also a registered cardholder"

6. Page 11, line 21.

Following: "personal use"

Insert: "if the provider is not a registered cardholder"

7. Page 13, line 20.

Insert: "NEW SECTION. Section 17. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 17] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 17].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature."

BUSINESS REPORT
MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION
SENATE FREE CONFERENCE COMMITTEE

Date: Monday, April 18, 2011
Place: Capitol

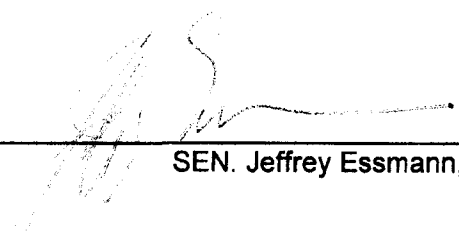
Time: 10:00 A.M.
Room: 335

BILLS and RESOLUTIONS HEARD:

SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

Comments:



SEN. Jeffrey Essmann, Chair

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4/13/11 HB/SB No. 423

NAME	PRESENT	ABSENT/ EXCUSED
Sen. <u>Ezmann</u>	<u>/</u>	
Sen. <u>Rausen</u>	<u>/</u>	xx
Sen. <u>Vincent</u>	<u>/</u>	
Rep. <u>Sands</u>	<u>/</u>	
Rep. <u>Berry</u>	<u>/</u>	
Rep. <u>Smith</u>	<u>/</u>	

Staff: See O'Connell

Secretary: Sam Schuick

MONTANA STATE SENATE

VISITOR REGISTER

CONFERENCE/FREE CONFERENCE COMMITTEE
on SB/HB # SB 423

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Name	Representing	Support	Oppose	Info
Travis Green	Lionheart Caregiving		X	
Jennifer Panuzzi	Lionheart Caregiving		X	
Joel Murely	self/family/aid	X		
JOSE ESTENSON	SELF		X	
Ken Lyman	Self		X	
Grant Greenfell	Self		X	
Dr Guggenheim	Board of Medical Examiners			✓
Riley Johnson	NFIB	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 423

Call to Order: Chair Jeff Essmann, on April 19, 2011 at 11:30 A.M., in Room 137
Capitol

ROLL CALL

Members Present:

Sen. Jeff Essmann, Chair (R)
Rep. Cary Smith, Chair (R)
Rep. Tom Berry (R)
Sen. Cliff Larsen (D)
Rep. Diane Sands (D)
Sen. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present: Sue O'Connell, Legislative Services Division (LSD)
Pam Schindler, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary: SB 423

Executive Action: SB 423-Do Pass As Amended

(Please Note: The Free Conference Committee Report was not available until 4/20/11. It is included in the Free Conference Committee Minutes 4/20/11)

(Please Note: Some Amending Sections will not be in consecutive order or will not be "Moved and Voted Upon." Various Amending Sections will be internal changes and/or be approved when corresponding Amending Sections are voted upon. Refer to the audio/video minutes if further information is necessary.)

00:00:22 Chairman Essmann
00:00:48 Sue O'Connell, Legislative Service Division (LSD)

EXHIBIT(frs87sb0423a01)

EXHIBIT(frs87sb0423a02)

00:02:48 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 41.** Motion carried unanimously by voice vote.

00:03:29 Ms. O'Connell
00:05:26 Chairman Essmann

00:06:21 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 65.**

Discussion:

00:06:40 Ms. O'Connell

00:06:55 **Vote:** Motion carried unanimously by voice vote.

00:07:12 Ms. O'Connell

00:09:01 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH "RED BILL" PAGE 7, LINES 8-15.**

EXHIBIT(frs87sb0423a03)

Discussion:

00:09:23 Chairman Essmann
00:11:13 Sen. Larsen

00:11:35 **Vote:** Motion carried unanimously by voice vote.

00:11:59 Ms. O'Connell

Discussion regarding various topics within the "Red Bill":

(Please refer to the audio/video minutes for further information)

00:13:13 Chairman Essmann
00:15:00 Rep. Sands
00:16:04 Chairman Essmann
00:16:41 Rep. Berry
00:17:11 Chairman Essmann

00:17:51 Rep. Sands
00:18:21 Rep. Smith
00:18:55 Rep. Sands
00:19:35 Ms. O'Connell
00:20:16 Chairman Essmann
00:20:27 Rep. Smith
00:20:51 Sen. Vincent
00:20:59 Rep. Sands
00:21:17 Sen. Larsen
00:22:26 Rep. Sands
00:22:46 Rep. Smith
00:24:23 Sen. Larsen
00:25:24 Chairman Essmann

00:25:57 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH LANGUAGE, "A PROVIDER MAY ACCEPT A REIMBURSEMENT FROM A CARDHOLDER ..."**.

Discussion:

00:26:36 Rep. Smith
00:26:41 Rep. Sands
00:26:52 Chairman Essmann

00:27:02 **Vote:** Motion carried 4-2 by voice vote with Rep. Sands and Sen. Larsen voting no.

00:27:39 Ms. O'Connell

00:29:23 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT FOR LANGUAGE, "...BACKGROUND CHECKS ON RENEWING A CARD..."**. Motion carried unanimously by voice vote.

00:29:54 Ms. O'Connell

00:31:27 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 74, 75, 76**. Motion carried unanimously by voice vote.

00:32:12 Ms. O'Connell
00:33:04 Chairman Essmann
00:33:09 Rep. Smith
00:33:29 Ms. O'Connell
00:33:41 Chairman Essmann

00:33:50 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 81 AND TO ALSO STRIKE THE WORD, "EXCLUSIVELY"**. Motion carried unanimously by voice vote.

00:34:29 Ms. O'Connell

00:35:25 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTIONS 97 AND 98.**

Discussion:

00:35:47 Chairman Essmann
00:36:07 Rep. Smith

00:36:19 **Substitute Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 97 AND NOT 98.** Motion carried unanimously by voice vote.

00:37:25 Ms. O'Connell

00:38:26 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 122.**

Discussion:

00:38:48 Rep. Smith
00:39:14 Ms. O'Connell
00:39:51 Rep. Smith

00:40:01 **Vote:** Motion carried unanimously by voice vote.

00:40:21 Ms. O'Connell

00:41:26 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 134 AND RELATED LANGUAGE, AND TO INSERT THE WORDS "FRAUDULENT REPRESENTATION" AND "VIOLATION" LANGUAGE.** Motion carried unanimously by voice vote.

00:42:27 Ms. O'Connell

00:43:27 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED. EXHIBIT(frs87sb0423a04)**

Discussion:

00:43:51 Chairman Essmann
00:44:09 Ms. O'Connell
00:44:39 Chairman Essmann
00:45:22 Rep. Smith

00:45:40 **Substitute Motion/Vote:** Rep. Sands **WITHDREW PREVIOUS MOTION** and moved that **SB 423 BE AMENDED WITH THE LAST SENTENCE OF PREVIOUS AMENDMENT, "REJECTION OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DEPARTMENT ACTION, SUBJECT TO JUDICIAL REVIEW".** Motion carried unanimously by voice vote.

00:47:19 Ms. O'Connell

00:48:46 **Motion:** Rep. Sands move that **SB 423 BE AMENDED.**

EXHIBIT(frs87sb0423a05)

EXHIBIT(frs87sb0423a06)

Discussion:

00:49:51 Rep. Sands
00:51:06 Sen. Vincent
00:52:02 Rep. Sands
00:52:43 Sen. Vincent
00:53:13 Rep. Sands
00:53:20 Sen. Vincent
00:53:52 Chairman Essmann
00:55:25 Sen. Larsen
00:56:42 Rep. Smith
00:57:38 Rep. Berry

00:58:17 **Substitute Motion:** Chairman Essmann moved that **SB 423 BE AMENDED WITH THE LANGUAGE FROM PREVIOUS AMENDMENT IN SUB-SECTION ii.**

00:59:18 Rep. Smith
00:59:28 Rep. Sands
01:00:38 Sen. Larsen
01:01:43 Rep. Berry
01:02:25 Sen. Vincent

01:03:32 **Vote:** Motion carried 4-2 by voice vote with Rep. Sands and Sen. Larsen voting no.

01:04:05 Ms. O'Connell
01:04:15 Chairman Essmann

01:04:19 **Motion:** Rep. Sands moved that **SB 423 DO PASS AS AMENDED.**

Discussion:

01:04:35 Sen. Larsen
01:06:33 Rep. Smith
01:06:45 Sen. Larsen
01:07:13 Rep. Berry
01:07:44 Chairman Essmann
01:08:03 Rep. Sands
01:08:20 Chairman Essmann

01:08:57 **Vote:** Motion carried unanimously by voice vote.

01:09:26 Chairman Essmann

01:10:05 Rep. Berry

(The Free Conference Committee on SB 423 reconvened @ 3:00 P.M. Room 137, Sen. Larsen was excused)

01:10:56 Chairman Essmann

01:11:16 Ms. O'Connell

01:12:12 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 10, AND TO REMOVE THE LANGUAGE, "AT A MINIMUM" BEFORE LITTLE A.** Motion carried unanimously by voice vote.

EXHIBIT(frs87sb0423a07)

EXHIBIT(frs87sb0423a08)

01:12:54 Ms. O'Connell

01:13:37 **Motion:** Sen. Berry moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT FOR PAGE 6, LINE 7 "COULD NOT CULTIVATE OR MANUFACTURE UNLESS THE REGISTERED CARDHOLDER IS THE PROVIDER".** Motion carried unanimously by voice vote.

01:14:12 **Motion:** Rep. Sands moved that **SB 423 DO PASS AS AMENDED.**

Discussion:

01:14:40 Sen. Vincent

01:15:45 Chairman Essmann

01:16:00 **Vote:** Motion carried unanimously by voice vote.

01:16:26 Valencia Lane, LSD

EXHIBIT(frs87sb0423a09)

ADJOURNMENT

Adjournment: 4:15 P.M.

Pam Schindler, Secretary

Additional Documents:

EXHIBIT([frs87sb0423aad.pdf](#))

Amendments to Senate Bill No. 423
Reference Copy

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 19, 2011 (11:18am)

1. Title, page 1, line 8.
Following: "INDIVIDUALS;"
Insert: "REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING
LEGISLATIVE MONITORING;"
2. Title, page 1, line 12.
Following: "45-9-203,"
Insert: "46-18-202, 50-46-201, 50-46-202,"
3. Page 1, line 16 through line 22.
Strike: "WHEREAS," on line 16 through "ACT," on line 22
4. Page 1, line 28.
Strike: "17"
Insert: "23"
5. Page 1, line 30.
Strike: "17"
Insert: "23"
6. Page 2, line 4.
Strike: "17"
Insert: "23"
Strike: "and"
7. Page 2.
Following: line 4
Insert: "(c) allow individuals to assist a limited number of
registered cardholders with the cultivation and manufacture
of marijuana or marijuana-infused products;
(d) establish reporting requirements for production of
marijuana and marijuana-infused products and inspection
requirements for premises; and"
Renumber: subsequent subsection
8. Page 2, line 8.
Strike: "17"
Insert: "23"
9. Page 2.
Following: line 9
Insert: "(1) "Correctional facility or program" means a facility

or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction."

Renumber: subsequent subsections

10. Page 2, line 10 through line 11.

Following: "means" on line 10

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: ", at a minimum:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's treating physician; and

(ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature"

Renumber: subsequent subsections

11. Page 2.

Following: line 14

Insert: "(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician."

Renumber: subsequent subsections

12. Page 2, line 17 through line 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

13. Page 2, line 20.

Strike: "cultivate," through "use by"

Insert: "assist"

Following: "cardholder"

Insert: "as allowed under [sections 1 through 23]"

14. Page 2, line 21.

Following: "cardholder's"

Insert: "treating physician or referral"

15. Page 2.

Following: line 21

Insert: "(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment."

Renumber: subsequent subsections

16. Page 2.

Following: line 23

Insert: "(13) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder."

Renumber: subsequent subsections

17. Page 2, line 25.

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

18. Page 2, line 27.

Strike: "17"

Insert: "23"

19. Page 3, line 2.

Following: "means"

Strike: "the standard" through "examiners"

Insert: ", at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician"

20. Page 3.

Following: line 2

Insert: "(18) "Treating physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) has a bona fide professional relationship with the person applying to be a registered cardholder."

Renumber: subsequent subsections

21. Page 3, line 7.

Following: "physician"

Insert: "or referral physician"

22. Page 3, line 8.

Strike: "6"

Insert: "7"

23. Page 3, line 14.

Strike: "17"

Insert: "23"

24. Page 3, line 15.

Following: "providers"

Insert: "or marijuana-infused products providers"

25. Page 3, line 18.

Strike: "17"

Insert: "23"

26. Page 3, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

27. Page 3, line 21.

Strike: "17"

Insert: "23"

28. Page 3, line 25.

Following: "provider"

Insert: "or marijuana-infused products provider"

29. Page 3, line 28.

Strike: "or for"

Insert: ", "

Following: "provider"

Insert: ", or a marijuana-infused products provider"

30. Page 4, line 2.

Strike: "17"

Insert: "23"

Strike: "15"

Insert: "30"

31. Page 4, line 4.

Strike: "15"

Insert: "5"

32. Page 4, line 6.

Following: "(5)"

Insert: "(a)"

Following: "unless"

Insert: ": (i) a physician has provided a written certification
stating that a card is valid for a shorter period of time;
or
(ii)"

33. Page 4, line 7.

Following: "providers"

Insert: "or marijuana-infused products providers"

Following: "providers."

Insert: "(b)"

Following: "provider's"

Insert: "or marijuana-infused products provider's"

34. Page 4, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

35. Page 4, line 10.

Following: "physician"

Strike: "or"

Following: "provider"

Insert: ", or marijuana-infused products provider"

36. Page 4, line 19.

Strike: "and"
Insert: ", "
Following: "providers"
Insert: ", and marijuana-infused products providers"

37. Page 4, line 20.
Following: "cardholder"
Strike: "or"
Insert: ", "
Following: "providers"
Insert: ", or marijuana-infused products providers"
Strike: "live"
Insert: "are located"

38. Page 4, line 21.
Strike: "14"
Insert: "17"

39. Page 4, line 28.
Following: "providers"
Insert: "and marijuana-infused products providers"

40. Page 5, line 1.
Strike: "or"
Insert: ", "
Following: "physicians"
Insert: ", providers, or marijuana-infused products providers"

41. Page 5, line 2.
Insert: "(11) The board of medical examiners shall report annually to the legislature on:
 (a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and
 (b) the number of physicians whose names were provided to the board by the department as required under subsection (9). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (9) met the standard of care when providing written certifications."

42. Page 5, line 12.
Following: "provider"
Insert: "or a marijuana-infused products provider"

43. Page 5.
Following: line 12
Insert: "(f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;"

Renumber: subsequent subsections

44. Page 5, line 13.

Following: "physician"

Insert: "or referral physician"

45. Page 5, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

46. Page 5, line 19.

Strike: "a statement"

Insert: "the written certification and accompanying statements"

Following: "physician"

Insert: "or referral physician"

Strike: "6"

Insert: "7"

47. Page 5, line 21.

Strike: "(2)"

Insert: "(1)"

48. Page 5, line 22.

Following: "decisions"

Insert: ": (a) provides proof of legal guardianship and
responsibility for health care decisions if the person is
submitting an application as the minor's legal guardian with
responsibility for health care decisions; and
(b) "

49. Page 5, line 23.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

50. Page 5, line 26.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

51. Page 5, line 27.

Following: "minor's"

Insert: "marijuana-infused products"

52. Page 5, line 29.

Strike: "and"

53. Page 5.

Following: line 29

Insert: "(D) agrees that the minor will use only marijuana-

infused products and will not smoke marijuana;"

54. Page 5, line 30.

Strike: "(iv)"

Insert: "(c)"

Strike: "undergoes a name-based"

Insert: "submits fingerprints to facilitate a fingerprint and"

Following: "check"

Insert: "by the department of justice and federal bureau of investigation"

55. Page 6, line 1.

Following: "check"

Insert: "and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5]."

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product"

56. Page 6, line 3 through line 5.

Following: "or" on line 3

Strike: "┐"

Insert: "or"

Following: "court" on line 3

Strike: ", A DISTRICT COURT" through "PROGRAM" on line 5

57. Page 6, line 6.

Following: "provider"

Insert: "or marijuana-infused products provider"

58. Page 6, line 8.

Strike: "9"

Insert: "10"

59. Page 6, line 12.

Following: "provider"

Strike: "or to"

Insert: ", a marijuana-infused products provider, or"

60. Page 6, line 16.

Strike: "Providers"

Insert: "Provider types"

Following: "limitations"

Insert: "-- activities"

61. Page 6, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

62. Page 6, line 23.

Following: "cardholder"

Insert: "that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider"

63. Page 6.

Following: line 23

Insert: "(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;"

Renumber: subsequent subsections

64. Page 6, line 24.

Strike: "indicating whether"

Insert: "acknowledging that"

65. Page 6, line 25.

Following: "at"

Strike: "a property" through ";" and"

Insert: "only one location as provided in subsection (7). The location must be identified by street address."

66. Page 6, line 28.

Strike: "as a provider"

Insert: "under this section"

67. Page 6, line 30 through page 7, line 2.

Following: "court" on page 6, line 30

Strike: "A" through "PROGRAM" on page 7, line 2

68. Page 7.

Following: line 2

Insert: "(c) has been convicted of a violation of [section 16];"

Renumber: subsequent subsection

69. Page 7, line 8.

Following: "agency"

Insert: "; or (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4]"

70. Page 7, line 9 through line 11.

Following: "(3)" on line 9

Insert: "(a)"

Following: the first "provider"

Insert: "or marijuana-infused products provider"

Strike: "only one" on line 9 through "marriage" on line 11

Insert: "a maximum of three registered cardholders"

71. Page 7.

Following: line 11

Insert: "(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section."

Renumber: subsequent subsections

72. Page 7, line 12.

Strike: "17"

Insert: "23"

73. Page 7, line 14.

Following: "provider"

Insert: "or marijuana-infused products provider"

74. Page 7, line 15.

Strike: "compensation"

Insert: "anything of value, including monetary remuneration,"

75. Page 7.

Following: line 15

Insert: "(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or"

Renumber: subsequent subsections

76. Page 7, line 16 and line 17.

Following: "marijuana"

Strike: "; or" on line 16 through "cardholder" on line 17

Insert: "unless the person is also a registered cardholder"

77. Page 7, line 18.

Strike: "provider"

Insert: "person registered under this section"

Following: "only at"

Insert: "one of the following locations"

78. Page 7, line 19.

Following: "provider"

Insert: "or marijuana-infused products provider"

79. Page 7, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

80. Page 7, line 24.

Following: "provider"

Insert: "or marijuana-infused products provider"

81. Page 7, line 25.

Insert: "NEW SECTION. **Section 6. Marijuana-infused products provider -- requirements -- allowable activities.** (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used exclusively for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

Renumber: subsequent sections

82. Page 7, line 26.

Strike: "Physician statement"

Insert: "Written certification -- accompanying statements"

83. Page 7, line 27.

Following: "must"

Insert: "be made on a form prescribed by the department and signed and dated by the physician. The written certification must"

84. Page 7.

Following: line 27

Insert: "(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a

statement initialed by the physician that must:"

85. Page 7, line 28.

Following: "is"

Insert: ": (i)"

86. Page 7, line 29.

Following: "physician's"

Insert: "ongoing"

Strike: "and supervision"

Insert: "as part of a bona fide professional relationship with
the person; or

(ii) is the person's referral physician"

87. Page 8.

Following: line 2

Insert: "(d) confirm that the physician has assumed primary
responsibility for providing management and routine care of
the person's debilitating medical condition after obtaining
a comprehensive medical history and conducting a physical
examination that included a personal review of any medical
records maintained by other physicians and that may have
included the person's reaction and response to conventional
medical therapies;"

Renumber: subsequent subsections

88. Page 8.

Following: line 4

Insert: "(g) confirm that the physician has reviewed all
prescription and nonprescription medications and supplements
used by the person and has considered the potential drug
interaction with marijuana;"

Renumber: subsequent subsections

89. Page 8.

Following: line 7

Insert: "(i) confirm that the physician has explained the
potential risks and benefits of the use of marijuana to the
person;"

Renumber: subsequent subsections

90. Page 8, line 10.

Strike: "and"

91. Page 8, line 12.

Following: "physician"

Insert: "or referral physician"

92. Page 8, line 13.

Strike: "supervise"

Insert: "monitor"
Following: "person's"
Insert: "response to the"
Strike: "treatment"
Insert: "; and
 (m) contain an attestation that the information provided in
the written certification and accompanying statements is true and
correct"

93. Page 8, line 18.
Strike: the first "or"
Insert: ", "
Following: "provider"
Insert: ", or marijuana-infused products provider"
Strike: "cardholder's or provider's"
Insert: "person's"

94. Page 8, line 24.
Strike: "10"
Insert: "11"

95. Page 8, line 29.
Following: "provider"
Insert: "or marijuana-infused products provider"

96. Page 9, line 1.
Following: "provider"
Insert: "or marijuana-infused products provider"

97. Page 9, line 10
Following: "provider"
Insert: "or marijuana-infused products provider"
Strike: "the amounts allowed under subsection (1)(a)"
Insert: "4 mature plants, 12 seedlings, and 1 ounce of usable
 marijuana"

98. Page 9.
Following: line 11
Insert: "(c) A provider or marijuana-infused products provider
 who is also a registered cardholder may possess a maximum of
 12 mature plants, 36 seedlings, and 3 ounces of usable
 marijuana."

99. Page 9, line 12.
Strike: "10"
Insert: "11"

100. Page 9, line 13.
Strike: "17"
Insert: "23"

101. Page 9, line 16.

Strike: "registered cardholder or provider"

Insert: "individual"

102. Page 9, line 26.

Strike: "17"

Insert: "23"

103. Page 9, line 29.

Strike: "17"

Insert: "23"

104. Page 10, line 3.

Strike: "Possession"

Insert: "Except as provided in [section 14], possession"

105. Page 10, line 11.

Insert: "(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

106. Page 10, line 12.

Strike: "17"

Insert: "23"

107. Page 10, line 22.

Strike: "in"

Insert: "when ordered by any court of competent jurisdiction into"

Following: "facility"

Strike: "INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203"

Insert: "or program"

108. Page 10.

Following: line 22

Insert: "(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;"

Renumber: subsequent subsections

109. Page 10, line 25.

Following: "or"

Insert: "or"

110. Page 10, line 27 through line 30.

Strike: "; OR" on line 27 through "PROGRAM" on line 30

111. Page 11, line 1.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

112. Page 11, line 3.

Following: "hospice"

Insert: "or residential care facility"

113. Page 11, line 5.

Strike: "17"

Insert: "23"

114. Page 11, line 8 through line 9.

Strike: "person with" on line 8 through "condition" on line 9

Insert: "registered cardholder"

115. Page 11, line 13.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

116. Page 11, line 15.

Strike: "17"

Insert: "23"

117. Page 11, line 20.

Strike: "17"

Insert: "23"

Following: "provider"

Insert: "or marijuana-infused products provider"

118. Page 11, line 21.

Following: "provider"

Insert: "or marijuana-infused products provider"

119. Page 11, line 22 through page 23.

Strike: "registered" on line 22 through "provider" on line 23

Insert: "person with a valid registry identification card"

120. Page 11, line 25.

Strike: "3.5"

Insert: "5"

121. Page 11, line 26.

Following: "cardholder"

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

122. Page 12, line 6.

Insert: "NEW SECTION. Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee as the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana."

Renumber: subsequent sections

123. Page 12, line 7.

Following: "regulate."

Insert: "(1) "

124. Page 12, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

125. Page 12, line 12.

Insert: "(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses."

Insert: "NEW SECTION. Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct frequent, unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies at any time.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder."

Renumber: subsequent sections

126. Page 12, line 16.

Strike: "cardholder's"

Insert: "person's"

127. Page 12, line 18.

Following: "(ii)"

Insert: "mature"

Strike: "or"

Insert: ", seedlings,"

Following: "usable marijuana"

Insert: ", or marijuana-infused products"

128. Page 12, line 19.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "17"

Insert: "23"

129. Page 12, line 21.

Strike: "17"

Insert: "23"

130. Page 12, line 26.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "felony"

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Insert: "a term"

131. Page 12, line 27.

Strike: "less than"

Insert: "to exceed"

Strike: "or not more than 5 years"

Strike: "\$50,000"

Insert: "\$1,000"

132. Page 12, line 28.

Strike: "6"

Insert: "7"

133. Page 12, line 29 and line 30.

Strike: "felony" on line 27

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Strike: "not less than"

Insert: "a term not to exceed"

Strike: "or not more" on line 29 through "years" on line 30

Strike: "\$50,000"

Insert: "\$1,000"

134. Page 12.

Following: line 30

Insert: "(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5]."

135. Page 13, line 2.

Following: "A"

Insert: "Except as provided in 37-3-203, a"

136. Page 13, line 5.

Strike: "17"

Insert: "23"

137. Page 13, line 10 through line 11.

Strike: "debilitating" on line 11 through "provider" on line 11

Insert: "registry identification card"

138. Page 13, line 14.

Strike: "17"

Insert: "23"

139. Page 13, line 17.

Strike: "17"

Insert: "23"

140. Page 13, line 18.

Following: "possession of"

Insert: "mature"

Following: "plants"

Insert: "or seedlings"

141. Page 13, line 19.

Following: "plants"

Insert: "or seedlings"

142. Page 13, line 20.

Insert: "NEW SECTION. Section 20. Advertising prohibited.

Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media."

Insert: "NEW SECTION. Section 21. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Insert: "NEW SECTION. Section 22. Legislative monitoring. (1)

The children, families, health, and human services interim

committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature. "

Renumber: subsequent sections

143. Page 13, line 22.

Strike: "17"

Insert: "23"

144. Page 13, lines 25 and 26.

Following: "providers" on line 25

Insert: "and marijuana-infused products providers"

Following: "cards"

Strike: "for" on line 25 through "cardholders" on line 26

145. Page 13, line 29.

Strike: "[section 5]"

Insert: "[sections 4 and 5]"

Following: ";"

Strike: "and"

146. Page 13, line 30.

Strike: "17"

Insert: "23"

147. Page 14, line 2.

Strike: "17"

Insert: "23"

148. Page 15, line 25.

Strike: "that is"

Insert: "and accompanying statements"

149. Page 15, line 26.

Strike: "17"

Insert: "23"

150. Page 16, line 10.

Strike: "that is"

Insert: "accompanying statements"

151. Page 16, line 11.

Strike: "17"

Insert: "23"

152. Page 16, line 23.

Strike: "that is"

Insert: "and accompanying statements"

Strike: "17"

Insert: "23"

153. Page 19, line 18.

Strike: "12"

Insert: "15"

154. Page 19, line 19.

Insert: "Section 29. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

- (a) prohibition of the offender's holding public office;
- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under [section 3];

(f)(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

{ Internal References to 46-18-202:

41-5-208 *x 44-6-102 x 44-6-103x 46-18-207x

46-23-201 x 46-23-210x 53-1-203x }"

Insert: "Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise

subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

{Internal References to 50-46-201: None.}"

Insert: "Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

{Internal References to 50-46-202: None.}"

Renumber: subsequent sections

155. Page 20, line 29.

Insert: "NEW SECTION. Section 33. Emergency rulemaking. The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011."

Renumber: subsequent sections

156. Page 21, line 13.

Strike: "this act"

Insert: "section 40(2)"

157. Page 21.

Following: line 14

Insert: "(2) (a) The department of public health and human

services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptom's of the cardholder's debilitating medical condition."

Renumber: subsequent subsection

158. Page 21, line 15 through line 16.

Strike: "July" on line 15 through "2011," on line 16

Insert: "[the effective date of this section]"

Following: "possession of"

Insert: "mature"

159. Page 21, line 17.

Following: the first "2011"

Insert: ", if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2)"

Following: "2011,"

Strike: "the"

Insert: "a"

Following: "caregiver"

Insert: "who has not obtained a registry identification card pursuant to [sections 1 through 23]"

Strike: "the items"

Insert: "any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products"

still in the caregiver's possession"

160. Page 21, line 21.

Strike: "17"

Insert: "23"

161. Page 21, line 23.

Strike: "17"

Insert: "23"

162. Page 21, line 25 through line 27.

Strike: "(1) If" on line 25 through "(2)" on line 27

163. Page 22, line 7.

Strike: "7"

Insert: "11"

164. Page 22, line 13.

Strike: "date"

Insert: "dates"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

165. Page 22, line 14.

Insert: "(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval."

- END -

EXHIBIT 2
DATE 4/19/11
SB 023

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition or for a provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to [sections 1 through 17] and shall approve or deny an application or renewal within 15 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 15 days of approving an application or renewal.

(5) The department may deny an application or renewal only if the applicant did not provide the information required pursuant to [sections 1 through 23], the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 23]. Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) Registry identification cards expire 1 year after the date of issuance unless a registered cardholder changes providers. A provider's registry identification card expires at the time the department issues a card to a new provider named by a registered cardholder.

(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, or provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (8), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or manufacture marijuana for the cardholder's use.

(5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

NEW SECTION. Section 5. Providers Provider types -- requirements -- limitations -- activities. (1) The department shall issue a registry identification card to the person who is named as a provider on a marijuana-licensed person's provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder acknowledging whether the person will act as the cardholder's provider or manufacturer or both.

(e) statement on a form prescribed by the department indicating whether the person will cultivate or manufacture marijuana for the registered cardholder, and, if so, whether the person will cultivate and manufacture marijuana for the registered cardholder at a property owned, rented, or leased by the cardholder or by the person; and only one location as provided in subsection (6). The location must be identified by street address.

(f) a statement indicating whether acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at a property owned, rented, or leased by the cardholder or by the person; and only one location as provided in subsection (6). The location must be identified by street address.

(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person as a provider or manufacturer if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court.

(c) has been convicted of a violation of [section 16];

(c) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4].

(3) (a) A provider or marijuana-infused products provider may assist only one registered cardholder a maximum of three registered cardholders unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second-degree of kinship by blood or marriage.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to [sections 1 through 23] must be cultivated and manufactured in Montana.

(6) A provider or marijuana-infused products provider may not:

(a) accept ~~any~~ anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder; or

(d) be a registered cardholder as both a provider and a marijuana-infused products provider.

(6) (a) A provider or marijuana-infused products provider may cultivate and manufacture marijuana for use by a registered cardholder only at:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. Section 9. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess the amounts allowed under subsection (4)(a) 4 mature marijuana plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(c) A provider or marijuana-infused products provider who is also a registered cardholder may possess a maximum of 12 mature plants, 36 seedlings, and 3 ounces of usable marijuana.

(2) Except as provided in [section 10] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 17] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the registered cardholder or provider cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

3
4/19/11
SB423

Amendments to Senate Bill No. 423
Reference Copy

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 19, 2011 (11:23am)

1. Page 7.

Following: "line 11"

Insert: "(a) A provider or marijuana-infused products provider may accept reimbursement from each cardholder who initially names the person as the cardholder's provider or marijuana-infused products provider. The reimbursement must be used to cover the provider's initial registration fee and may not exceed \$500.

(b) A provider or marijuana-infused products provider may not receive additional reimbursement when a cardholder renews the cardholder's registry identification card or transfers from another provider or marijuana-infused products provider."

- END -

4
DATE 4/19/11
SB 423

Amendments to Senate Bill No. 423
Reference Copy

For the House Free Conference Committee

Prepared by Sue O'Connell
April 19, 2011 (10:16am)

1. Page 4.

Following: line 5

Insert: "(5) The department may deny an application or renewal only if the applicant did not provide the information required pursuant to [sections 1 through 23], the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 23]. Rejection of an application or renewal is considered a final department action, subject to judicial review."

Renumber: subsequent subsections

2. Page 4, line 13.

Strike: "(8)"

Insert: "(9)"

- END -

4/19/11
SB 423

O'Connell, Sue

From: Branscum, Jean
Sent: Tuesday, April 19, 2011 10:32 AM
To: O'Connell, Sue
Subject: FW: SB 423 - chronic pain definition..

Sue – I queried some of the physicians on the Board, and came up with the below as a definition of chronic pain for the committee's consideration. We were hoping to be helpful as this seemed to be a point of struggle.

- (c) severe chronic pain is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician; and by
- (i) objective proof of the etiology of the pain, including diagnostic tests that may include but are not limit to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or
- (ii) confirmation of that diagnosis from a second physician independent of the treating physician.

Jean Branscum
Executive Director
Montana Board of Medical Examiners
jabranscum@mt.gov
Phone: 406/841-2360
Fax: 406/841-2305
PO Box 200513
Helena, MT 59620-0513
medicalboard.mt.gov

From: Branscum, Jean
Sent: Tuesday, April 19, 2011 10:24 AM
To: Mary Anne Guggenheim (sweenycrik@gmail.com)
Subject: SB 423 - chronic pain definition..

- (c) severe chronic pain is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician; and by
- (i) objective proof of the etiology of the pain, including diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or
- (ii) confirmation of the diagnosis from a second physician independent of the treating physician.

Jean Branscum
Executive Director
Montana Board of Medical Examiners
jabranscum@mt.gov
Phone: 406/841-2360
Fax: 406/841-2305
PO Box 200513
Helena, MT 59620-0513
medicalboard.mt.gov

From: Dean Center [<mailto:kadmcenter@yahoo.com>]
Sent: Tuesday, April 19, 2011 9:25 AM
To: Branscum, Jean

DO-EST 6
DATE 4/19/11
BY SBV22

Amendments to Senate Bill No. 423
Reference Copy

Requested by Senator Jeff Essmann

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 19, 2011 (11:20am)

1. Page 2, line 10 through line 11.

Following: "means" on line 10

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: ", at a minimum:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) the patient's treating physician and a second physician as being debilitating to the extent that it substantially limits one or more major life activities.

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature."

Renumber: subsequent subsections

- END -

7
EXHIBIT 1
DATE 8/18/12
JRS/KRS

(2) The purpose of [sections 1 through 21] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 21] by persons who obtain registry identification cards; and

(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and

(e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 21], the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction

(2) "**Debilitating medical condition**" means ~~a medical condition determined by a physician to be debilitating for the person diagnosed with the condition;~~

(a) cancer, glioma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by

(i) the patient's primary care physician; and

(ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease.

**BEST COPY,
AVAILABLE**

or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction."

Renumber: subsequent subsections

10. Page 2, line 10 through line 11.

Following: "means" on line 10

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: "~~at a minimum:~~

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is documented by:

(i) the patient's treating physician; and

(ii) objective proof of the etiology of the pain, including diagnostic tests that include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature"

Renumber: subsequent subsections

11. Page 2.

Following: line 14

Insert: "(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician."

Renumber: subsequent subsections

8
DATE 4/19/11
SB 423

1 background check.

2 (3) A person may not be a registered cardholder if the person is in the custody of or under the
3 supervision of the department of corrections or, a youth court, A DISTRICT COURT, OR A COURT OF LIMITED
4 JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL
5 SUPERVISION OR ENFORCEMENT PROGRAM.

6 (4) A registered cardholder who elects to obtain marijuana from a provider may not cultivate or
7 manufacture marijuana for the cardholder's use.

8 (5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9] only:

9 (a) at a property that is owned by the cardholder; or

10 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

11 (6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
12 cardholder may be shared with or rented or leased to a provider or to a registered cardholder unless the property
13 is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by
14 blood or marriage.

15

16 **NEW SECTION. Section 5. Providers -- requirements -- limitations.** (1) The department shall issue
17 a registry identification card to the person who is named as a provider in a registered cardholder's approved
18 application if the person submits to the department:

19 (a) the person's name, date of birth, and street address on a form prescribed by the department;

20 (b) proof that the person is a Montana resident;

21 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the
22 federal bureau of investigation;

23 (d) a written agreement signed by the registered cardholder;

24 (e) a statement indicating whether the person will cultivate and manufacture marijuana for the registered
25 cardholder at a property owned, rented, or leased by the cardholder or by the person; and

26 (f) a fee as determined by the department to cover the costs of the fingerprint and background check and
27 associated administrative costs of processing the registration.

28 (2) The department may not register a person as a provider if the person:

29 (a) has a felony conviction or a conviction for a drug offense;

30 (b) is in the custody of or under the supervision of the department of corrections or a youth court, A

Montana State Senate

9
9
NOTE 4/19/11
SB 423

SENATOR JIM PETERSON
SENATE PRESIDENT



HELENA ADDRESS:
PO BOX 200500
HELENA, MONTANA 59620-0500
PHONE: (406) 444-4880

The Big Sky Country

HOME ADDRESS:
501 PETERSON RANCH LANE
BUFFALO, MONTANA 59418
(406) 374-2277

Michael W. Cotter, Esq.
United States Attorney
District of Montana
901 Front Street
Helena, MT 59601

Re: Therapeutic Marijuana Legislative Proposals

April 18, 2011

Dear Mr. Cotter:

We are writing on behalf of the Montana Legislature to request guidance and clarification of the U.S. Department of Justice's views of states' medical marijuana regulatory and licensing programs. The Free Conference Committee on Senate Bill No. 423, Senator Jeffrey V. Essmann, Chair, is currently finalizing legislation regulating the use of marijuana and marijuana-infused products for therapeutic use in Montana.

The proposal currently being considered by the Montana Legislature would create a program of registered cardholders (Montana residents with a debilitating medical condition) and registered providers (who may grow and manufacture marijuana for a very limited number of registered cardholders). The Department of Public Health and Human Services (DPHHS) would be responsible for the registration function established by SB 423. Under Montana's current Medical Marijuana Act, DPHHS performs comparable regulatory functions. The proposal would either prohibit compensation for providers or allow for only minimal compensation. At this time, the proposal does not provide for licensed dispensaries or growers.

The Committee received a copy of a letter dated April 14, 2011, from Jenny A. Durkan, United States Attorney for the Western District of Washington, and Michael C. Ormsby, United States Attorney for the Eastern District of Washington, to the Honorable Christine Gregoire, Governor of the State of Washington, concerning legislation currently being considered by the Washington State Legislature related to state regulation of medical marijuana. A copy of the letter is attached.

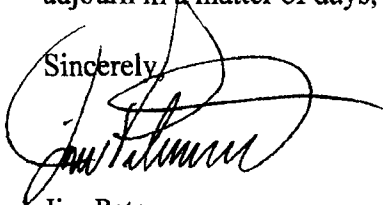
The letter suggests that the Department's investigative and prosecutorial resources will be directed toward persons and organizations that participate in unlawful manufacturing and distribution activities involving marijuana rather than towards seriously ill individuals who use medical marijuana in compliance with state law. However, the letter cites the Justice

Department's intent to vigorously pursue criminal or civil actions for any Controlled Substances Act (CSA) violations, including criminal prosecutions, civil injunctions, and forfeiture of drug proceeds against both those who set up marijuana growing facilities and dispensaries in violation of federal law and those who facilitate the actions of the licensees, including property owners, landlords, and financiers. The letter also specifically states that "state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA".

We appreciate the Department's responsibility and obligation to enforce CSA violations. We ask you for guidance and clarification as to how a state might permissibly proceed to regulate the use of marijuana for a small population of seriously ill individuals. The letter raises several questions regarding enforcement of federal law as it applies to seriously ill individuals who use marijuana for therapeutic purposes. The Free Conference Committee members are hoping that you can provide further clarification of the statements in the letter. They would appreciate clarification of questions such as what provisions in state law might offer relief from fear of prosecution to those who rely on therapeutic marijuana. Would state employees, performing a duly authorized state regulatory function, be subject to criminal prosecution under CSA? Would the Department seek civil injunctions or forfeiture actions against state employees? Obviously the statement that state employees may be subject to liability for performing a regulatory function is cause for concern and creates a level of uncertainty as the Legislature attempt to craft legislation to regulate the therapeutic use of marijuana.

Any light you can shed on the gray areas as to what might be permissible under a state's regulatory program would be most appreciated. Because the 2011 Legislature is scheduled to adjourn in a matter of days, a reply by April 19, 2011, would be also be appreciated.

Sincerely,



Jim Peterson,
President of the Senate,
Sixty-Second Legislature, 2011



Mike Milburn,
Speaker of the House of Representatives
Sixty-Second Legislature, 2011

Enc.

BUSINESS REPORT
MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION
SENATE FREE CONFERENCE COMMITTEE

Date: Tuesday, April 19, 2011
Place: Capitol

Time: 11:30 A.M.
Room: 335

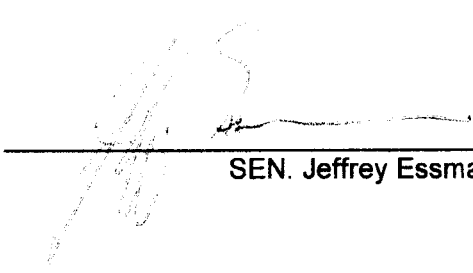
BILLS and RESOLUTIONS HEARD:

SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

SB 423-Do Pass As Amended

Comments:



SEN. Jeffrey Essmann, Chair

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4/19/11 (G. M.) HB/SB No. 423

NAME	PRESENT	ABSENT/ EXCUSED
Sen. Essmann	/	
Sen. Pausen	/	
Sen. Vincent	/	
Rep. Sands	/	
Rep. Berry	/	
Rep. C. Smith	/	

Staff: Sue O'Connell

Secretary: Tom Schick

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4/19/11 3:00pm HB/SB No. 423

NAME	PRESENT	ABSENT/ EXCUSED
Sen. Ersmann	-	
Sen. Lousen		-
Sen. Vincent	-	
Rep. C. Smith	-	
Rep. Sands	-	
Rep. Berry	-	

Staff: Sue O'Connell

Secretary: Pam Schick

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 423

Call to Order: Chair Jeff Essmann, on April 20, 2011 at 12:30 P.M., in Room 335
Capitol

ROLL CALL

Members Present:

Sen. Jeff Essmann, Chair (R)
Rep. Cary Smith, Chair (R)
Rep. Tom Berry (R)
Rep. Diane Sands (D)
Sen. Chas Vincent (R)

Members Excused: Sen. Cliff Larsen (D)

Members Absent: None

Staff Present: Sue O'Connell, Legislative Services Division (LSD)
Pam Schindler, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary: SB 423

Executive Action: SB 423-Do Pass As Amended

FREE CONFERENCE COMMITTEE ON SENATE BILL 423

April 20, 2011

PAGE 2 of 3

00:00:26 Sue O'Connell, Legislative Services Division (LSD)

00:02:30 **Motion:** Rep. Sands moved **TO RECONSIDER THE MOTION ON SB 423.**

00:02:40 Chairman Essmann

00:02:53 **Vote:** Motion carried unanimously by voice vote.

00:02:58 **Motion/Vote:** Rep. Sands moved that **SB 423 BE AMENDED ON PAGE 4, LINE 8 AND PAGE 2, LINE 29.** Motion carried unanimously by voice vote.
EXHIBIT(frs88sb0423a01)

00:03:21 **Motion/Vote:** Rep. Sands moved that **SB 423 DO PASS AS AMENDED.** Motion carried unanimously by voice vote.

NOTE: In lieu of motion, the unanimously signed Free Conference Committee Report indicates all committee members present and voting recommend that **THE CONFERENCE COMMITTEE REPORT BE ADOPTED.**

ADJOURNMENT

Adjournment: 12:39 P.M.

Pam Schindler, Secretary

Additional Documents:

EXHIBIT(frs88sb0423aad.pdf)

4.20.11

Following: "unless"

Insert: ": (i) a physician has provided a written certification
stating that a card is valid for a shorter period of time;
or
(ii)"

36. Page 4, line 7.

Following: "providers"

Insert: "or marijuana-infused products providers"

Following: "providers."

Insert: "(b)"

Following: "provider's"

Insert: "or marijuana-infused products provider's"

37. Page 4, line 8.

Following: "provider"

Insert: "or new marijuana-infused products provider"

38. Page 4, line 10.

Following: "physician"

Strike: "or"

Following: "provider"

Insert: ", or marijuana-infused products provider"

39. Page 4, line 19.

Strike: "and"

Insert: ", "

Following: "providers"

Insert: ", and marijuana-infused products providers"

40. Page 4, line 20.

Following: "cardholders"

Strike: "or"

Insert: ", "

Following: "providers"

Insert: ", or marijuana-infused products providers"

Strike: "live"

Insert: "are located"

41. Page 4, line 21.

Strike: "14"

Insert: "17"

42. Page 4, line 28.

Following: "providers"

Insert: "and marijuana-infused products providers"

43. Page 5, line 1.

Strike: "or"

Insert: ", "

products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician."

Renumber: subsequent subsections

12. Page 2, line 17 through line 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

13. Page 2, line 20.

Strike: "cultivate," through "use by"

Insert: "assist"

Following: "cardholder"

Insert: "as allowed under [sections 1 through 23]"

14. Page 2, line 21.

Following: "cardholder's"

Insert: "treating physician or referral"

15. Page 2.

Following: line 21

Insert: "(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment."

Renumber: subsequent subsections

16. Page 2.

Following: line 23

Insert: "(13) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder."

Renumber: subsequent subsections

17. Page 2, line 25.

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

18. Page 2, line 27.

Strike: "17"

Insert: "23"

19. Page 2.

Following: line 29

Insert: "(16) "Second degree of kinship by blood or marriage"

means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild."

20. Page 3, line 2.

Following: "means"

Strike: "the standard" through "examiners"

Insert: ", at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician"

21. Page 3.

Following: line 2

Insert: "(19) "Treating physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) has a bona fide professional relationship with the person applying to be a registered cardholder."

Renumber: subsequent subsections

22. Page 3, line 7.

Following: "physician"

Insert: "or referral physician"

23. Page 3, line 8.

Strike: "6"

Insert: "7"

24. Page 3, line 14.

Strike: "17"

Insert: "23"

BUSINESS REPORT
MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION
SENATE FREE CONFERENCE COMMITTEE

Date: Wednesday, April 20, 2011
Place: Capitol

Time: 12:30 P.M.
Room: 335

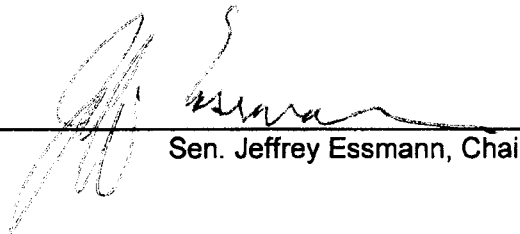
BILLS and RESOLUTIONS HEARD:

SB 423 - Generally revise laws relating to use of marijuana

EXECUTIVE ACTION TAKEN:

SB 423-Do Pass As Amended

Comments:



Sen. Jeffrey Essmann, Chair

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4/20/11 HB/SB No. 423

NAME	PRESENT	ABSENT/ EXCUSED
Sen. <u>Eggen</u>	<u>-</u>	
Sen. <u>Leisen</u>		<u>-</u>
Sen. <u>Vincent</u>	<u>-</u>	
Rep. <u>C. Smith</u>	<u>-</u>	
Rep. <u>Sanders</u>	<u>-</u>	
Rep. <u>Berry</u>	<u>-</u>	

Staff: Sen O'Connell

Secretary: Ken Schindler



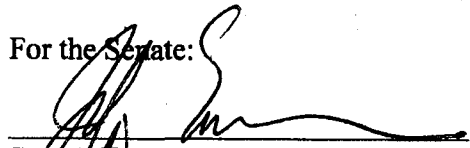
FREE CONFERENCE COMMITTEE
on Senate Bill 423
Report No. 002, April 20, 2011

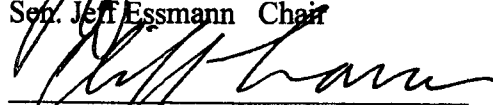
Page 1 of 26

Mr. President and Mr. Speaker:

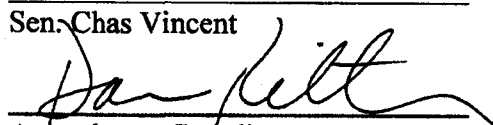
We, your Free Conference Committee met and considered **Senate Bill 423** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:


Sen. Jeff Essmann Chair

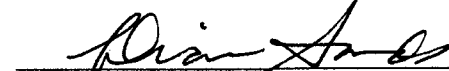

Sen. Cliff Larsen


Sen. Chas Vincent


Amendment Coordinator

For the House:


Rep. Cary Smith Vice Chair


Rep. Diane Sands


Rep. Tom Berry

And, recommend that **Senate Bill 423** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 8.

Following: "INDIVIDUALS;"

Insert: "REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING
LEGISLATIVE MONITORING;"

2. Title, page 1, line 12.

Following: "45-9-203,"

Insert: "46-18-202, 50-46-201, 50-46-202,"

3. Page 1, line 16 through line 22.

ADOPT
REJECT

Amendment # SB 423-002

Strike: "WHEREAS," on line 16 through "ACT." on line 22

4. Page 1, line 28.

Strike: "17"

Insert: "23"

5. Page 1, line 30.

Strike: "17"

Insert: "23"

6. Page 2, line 4.

Strike: "17"

Insert: "23"

Strike: "and"

7. Page 2.

Following: line 4

Insert: "(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and"

Renumber: subsequent subsection

8. Page 2, line 8.

Strike: "17"

Insert: "23"

9. Page 2.

Following: line 9

Insert: "(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction."

Renumber: subsequent subsections

10. Page 2, line 10 through line 11.

Following: "means" on line 10

Insert: ":",

Strike: "a medical " on line 10 through "the condition" on line 11

Insert: "(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature"

Renumber: subsequent subsections

11. Page 2.

Following: line 14

Insert: "(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician."

Renumber: subsequent subsections

12. Page 2, line 17 through line 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

13. Page 2, line 20.

Strike: "cultivate," through "use by"

Insert: "assist"

Following: "cardholder"

Insert: "as allowed under [sections 1 through 23]"

14. Page 2, line 21.

Following: "cardholder's"

Insert: "treating physician or referral"

15. Page 2.

Following: line 21

Insert: "(11) "Referral physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment."

Renumber: subsequent subsections

16. Page 2.

Following: line 23

Insert: "(13) "Registered premises" means the location at which a registered cardholder, provider, or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder."

Renumber: subsequent subsections

17. Page 2, line 25.

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

18. Page 2, line 27.

Strike: "17"

Insert: "23"

19. Page 2.

Following: line 29

Insert: "(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild."

20. Page 3, line 2.

Following: "means"

Strike: "the standard" through "examiners"

Insert: ", at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician"

21. Page 3.

Following: line 2

Insert: "(19) "Treating physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the person applying to be a registered cardholder."

Renumber: subsequent subsections

22. Page 3, line 7.

Following: "physician"

Insert: "or referral physician"

23. Page 3, line 8.

Strike: "6"

Insert: "7"

24. Page 3, line 14.

Strike: "17"

Insert: "23"

25. Page 3, line 15.

Following: "providers"

Insert: "or marijuana-infused products providers"

26. Page 3, line 18.

Strike: "17"

Insert: "23"

27. Page 3, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

28. Page 3, line 21.

Strike: "17"

Insert: "23"

29. Page 3, line 25.

Following: "provider"

Insert: "or marijuana-infused products provider"

30. Page 3, line 28.

Strike: "or for"
Insert: ", "
Following: "provider"
Insert: ", or a marijuana-infused products provider"

31. Page 4, line 2.

Strike: "17"
Insert: "23"
Strike: "15"
Insert: "30"

32. Page 4, line 4.

Strike: "15"
Insert: "5"

33. Page 4.

Following: line 5
Insert: "(5) Rejection of an application or renewal is considered
a final department action, subject to judicial review."
Renumber: subsequent subsections

34. Page 4, line 13.

Strike: "(8)"
Insert: "(9)"

35. Page 4, line 6.

Following: "(5)"
Insert: "(a)"
Following: "unless"
Insert: ": (i) a physician has provided a written certification
stating that a card is valid for a shorter period of time;
or
(ii)"

36. Page 4, line 7.

Following: "providers"
Insert: "or marijuana-infused products providers"
Following: "providers."
Insert: "(b)"
Following: "provider's"
Insert: "or marijuana-infused products provider's"

37. Page 4, line 8.

Following: "provider"
Insert: "or new marijuana-infused products provider"

38. Page 4, line 10.

Following: "physician"
Strike: "or"
Following: "provider"

Insert: ", or marijuana-infused products provider"

39. Page 4, line 19.

Strike: "and"

Insert: ", "

Following: "providers"

Insert: ", and marijuana-infused products providers"

40. Page 4, line 20.

Following: "cardholders"

Strike: "or"

Insert: ", "

Following: "providers"

Insert: ", or marijuana-infused products providers"

Strike: "live"

Insert: "are located"

41. Page 4, line 21.

Strike: "14"

Insert: "17"

42. Page 4, line 28.

Following: "providers"

Insert: "and marijuana-infused products providers"

43. Page 5, line 1.

Strike: "or"

Insert: ", "

Following: "physicians"

Insert: ", providers, or marijuana-infused products providers"

44. Page 5, line 2.

Insert: "(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications."

45. Page 5, line 12.

Following: "provider"

Insert: "or a marijuana-infused products provider"

46. Page 5.

Following: line 12

Insert: "(f) a statement, on a form prescribed by the department,

that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;"

Renumber: subsequent subsections

47. Page 5, line 13.

Following: "physician"

Insert: "or referral physician"

48. Page 5, line 17.

Following: "provider"

Insert: "or marijuana-infused products provider"

49. Page 5, line 19.

Strike: "a statement"

Insert: "the written certification and accompanying statements"

Following: "physician"

Insert: "or referral physician"

Strike: "6"

Insert: "7"

50. Page 5, line 21.

Strike: "(2)"

Insert: "(1)"

51. Page 5, line 22.

Following: "decisions"

Insert: ": (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and (b) "

52. Page 5, line 23.

Strike: "(a)"

Insert: "(i)"

Following: "minor's"

Insert: "treating"

Following: "physician"

Insert: "or referral physician"

Renumber: subsequent subsections

53. Page 5, line 26.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

54. Page 5, line 27.

Following: "minor's"

Insert: "marijuana-infused products"

55. Page 5, line 29.

Strike: "and"

56. Page 5.

Following: line 29

Insert: "(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;"

57. Page 5, line 30.

Strike: "(iv)"

Insert: "(c)"

Strike: "undergoes a name-based"

Insert: "submits fingerprints to facilitate a fingerprint and"

Following: "check"

Insert: "by the department of justice and federal bureau of investigation"

58. Page 6, line 1.

Following: "check"

Insert: "and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product"

59. Page 6, line 3 through line 5.

Following: "or" on line 3

Strike: "1"

Insert: "or"

Following: "court" on line 3

Strike: ", A DISTRICT COURT" through "PROGRAM" on line 5

60. Page 6, line 6.

Following: "provider"

Insert: "or marijuana-infused products provider"

61. Page 6, line 7.

Following: "use"

Insert: "unless the registered cardholder is the provider or marijuana-infused products provider"

62. Page 6, line 8.

Strike: "9"

Insert: "10"

63. Page 6, line 12.

Following: "provider"

Strike: "or to"

Insert: ", a marijuana-infused products provider, or"

64. Page 6, line 16.

Strike: "Providers"

Insert: "Provider types"

Following: "limitations"

Insert: "-- activities"

65. Page 6, line 17.

Following: "card to"

Insert: "or renew a card for"

Following: "provider"

Insert: "or marijuana-infused products provider"

66. Page 6, line 23.

Following: "cardholder"

Insert: "that indicates whether the person will act as the
cardholder's provider or marijuana-infused products
provider"

67. Page 6.

Following: line 23

Insert: "(e) a statement, on a form prescribed by the department,
that the person will not divert to any other person the
marijuana that the person cultivates or manufactures for a
registered cardholder;"

Renumber: subsequent subsections

68. Page 6, line 24.

Strike: "indicating whether"

Insert: "acknowledging that"

69. Page 6, line 25.

Following: "at"

Strike: "a property" through "; and"

Insert: "only one location as provided in subsection (7). The
location must be identified by street address."

70. Page 6, line 28.

Strike: "as a provider"

Insert: "under this section"

71. Page 6, line 30 through page 7, line 2.

Following: "court" on page 6, line 30

Strike: ", A" through "PROGRAM" on page 7, line 2

72. Page 7.

Following: line 2

Insert: "(c) has been convicted of a violation under [section
16];"

Renumber: subsequent subsection

73. Page 7, line 8.

Following: "agency"

Insert: "; or (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4]"

74. Page 7, line 9 through line 11.

Following: "(3)" on line 9

Insert: "(a)"

Following: the first "provider"

Insert: "or marijuana-infused products provider"

Strike: "only one" on line 9 through "marriage" on line 11

Insert: "a maximum of three registered cardholders"

75. Page 7.

Following: line 11

Insert: "(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section."

Renumber: subsequent subsections

76. Page 7, line 12.

Strike: "17"

Insert: "23"

77. Page 7, line 14.

Following: "provider"

Insert: "or marijuana-infused products provider"

78. Page 7, line 15.

Strike: "compensation"

Insert: "anything of value, including monetary remuneration,"

79. Page 7.

Following: line 15

Insert: "(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or"

Renumber: subsequent subsections

80. Page 7, line 16.

Following: "marijuana"

Insert: "unless the person is also a registered cardholder"

81. Page 7, line 17.

Strike: "a"

Following: "registered"

Strike: "cardholder"

Insert: "as both a provider and a marijuana-infused products provider"

82. Page 7, line 18.

Strike: "provider"

Insert: "person registered under this section"

Following: "only at"

Insert: "one of the following locations"

83. Page 7, line 19.

Following: "provider"

Insert: "or marijuana-infused products provider"

84. Page 7, line 20.

Following: "provider"

Insert: "or marijuana-infused products provider"

85. Page 7, line 24.

Following: "provider"

Insert: "or marijuana-infused products provider"

86. Page 7, line 25.

Insert: "NEW SECTION. **Section 6. Marijuana-infused products provider -- requirements -- allowable activities.** (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

Renumber: subsequent sections

87. Page 7, line 26.

Strike: "Physician statement"

Insert: "Written certification -- accompanying statements"

88. Page 7, line 27.

Following: "must"

Insert: "be made on a form prescribed by the department and signed and dated by the physician. The written certification must"

89. Page 7.

Following: line 27

Insert: "(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:"

90. Page 7, line 28.

Following: "is"

Insert: ": (i)"

91. Page 7, line 29.

Following: "physician's"

Insert: "ongoing"

Strike: "and supervision"

Insert: "as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician"

92. Page 8.

Following: line 2

Insert: "(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;"

ReNUMBER: subsequent subsections

93. Page 8.

Following: line 4

Insert: "(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug

interaction with marijuana;"
Renumber: subsequent subsections

94. Page 8.

Following: line 7

Insert: "(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;"

Renumber: subsequent subsections

95. Page 8, line 10.

Strike: "and"

96. Page 8, line 12.

Following: "physician"

Insert: "or referral physician"

97. Page 8, line 13.

Strike: "supervise"

Insert: "monitor"

Following: "person's"

Insert: "response to the"

Following: "treatment"

Insert: "; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct"

98. Page 8, line 18.

Strike: the first "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "cardholder's or provider's"

Insert: "person's"

99. Page 8, line 24.

Strike: "10"

Insert: "11"

100. Page 8, line 29.

Following: "provider"

Insert: "or marijuana-infused products provider"

101. Page 9, line 1.

Following: "provider"

Insert: "or marijuana-infused products provider"

102. Page 9, line 10

Following: "provider"

Insert: "or marijuana-infused products provider"

Strike: "the amounts allowed under subsection (1)(a)"

Insert: "4 mature plants, 12 seedlings, and 1 ounce of usable marijuana"

103. Page 9, line 12.

Strike: "10"

Insert: "11"

104. Page 9, line 13.

Strike: "17"

Insert: "23"

105. Page 9, line 16.

Strike: "registered cardholder or provider"

Insert: "individual"

106. Page 9, line 26.

Strike: "17"

Insert: "23"

107. Page 9, line 29.

Strike: "17"

Insert: "23"

108. Page 10, line 3.

Strike: "Possession"

Insert: "Except as provided in [section 14], possession"

109. Page 10, line 11.

Insert: "(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

110. Page 10, line 12.

Strike: "17"

Insert: "23"

111. Page 10, line 22.

Strike: "in"

Insert: "when ordered by any court of competent jurisdiction into"

Following: "facility"

Strike: ", INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203"

Insert: "or program"

112. Page 10.

Following: line 22

Insert: "(vii) if a court has imposed restrictions on the
cardholder's use pursuant to 46-18-202;"

Renumber: subsequent subsections

113. Page 10, line 25.

Following: "or"

Insert: "or"

114. Page 10, line 27 through line 30.

Strike: "; OR" on line 27 through "PROGRAM" on line 30

115. Page 11, line 1.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

116. Page 11, line 3.

Following: "hospice"

Insert: "or residential care facility"

117. Page 11, line 5.

Strike: "17"

Insert: "23"

118. Page 11, line 8 through line 9.

Strike: "person with" on line 8 through "condition" on line 9

Insert: "registered cardholder"

119. Page 11, line 13.

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

120. Page 11, line 15.

Strike: "17"

Insert: "23"

121. Page 11, line 20.

Strike: "17"

Insert: "23"

Following: "provider"

Insert: "or marijuana-infused products provider"

122. Page 11, line 21.

Following: "provider"

Insert: "or marijuana-infused products provider"

123. Page 11, line 22 through page 23.

Strike: "registered" on line 22 through "provider" on line 23

Insert: "person with a valid registry identification card"

124. Page 11, line 25.

Strike: "3.5"

Insert: "5"

125. Page 11, line 26.

Following: "cardholder"

Strike: "or"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

126. Page 12, line 6.

Insert: "NEW SECTION. **Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions.** (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical

examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana."

Renumber: subsequent sections

127. Page 12, line 7.

Following: "regulate."

Insert: "(1)"

128. Page 12, line 8.

Following: "provider"

Insert: "or marijuana-infused products provider"

129. Page 12, line 12.

Insert: "(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses."

Insert: "NEW SECTION. Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct frequent, unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies at any time.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder."

Renumber: subsequent sections

130. Page 12, line 16.

Strike: "cardholder's"

Insert: "person's"

131. Page 12, line 18.

Following: "(ii)"

Insert: "mature"

Strike: "or"

Insert: ", seedlings,"

Following: "usable marijuana"

Insert: ", or marijuana-infused products"

132. Page 12, line 19.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "17"

Insert: "23"

133. Page 12, line 21.

Strike: "17"

Insert: "23"

134. Page 12, line 26.

Following: "cardholder"

Strike: "or a"

Insert: ", "

Following: "provider"

Insert: ", or marijuana-infused products provider"

Strike: "felony"

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Insert: "a term"

135. Page 12, line 27.

Strike: "less than"

Insert: "to exceed"

Strike: "or not more than 5 years"

Strike: "\$50,000"

Insert: "\$1,000"

136. Page 12, line 28.

Strike: "6"

Insert: "7"

137. Page 12, line 29 and line 30.

Strike: "felony" on line 29

Insert: "misdemeanor"

Strike: "the state prison"

Insert: "a county jail"

Following: "for"

Strike: "not less than"

Insert: "a term not to exceed"

Strike: "or not more" on line 29 through "years" on line 30

Strike: "\$50,000"

Insert: "\$1,000"

138. Page 12.

Following: line 30

Insert: "(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5]."

139. Page 13, line 2.

Strike: "A"

Insert: "Except as provided in 37-3-203, a"

140. Page 13, line 5.

Strike: "17"

Insert: "23"

141. Page 13, line 10 through line 11.

Strike: "debilitating" on line 11 through "provider" on line 11

Insert: "registry identification card"

142. Page 13, line 14.

Strike: "17"

Insert: "23"

143. Page 13, line 17.

Strike: "17"

Insert: "23"

144. Page 13, line 18.

Following: "possession of"

Insert: "mature"

Following: "plants"

Insert: "or seedlings"

145. Page 13, line 19.

Following: "plants"

Insert: "or seedlings"

146. Page 13, line 20.

Insert: "NEW SECTION. Section 20. Advertising prohibited.

Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media."

Insert: "NEW SECTION. Section 21. Hotline. (1) The

department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Insert: "NEW SECTION. Section 22. Legislative monitoring.(1)

The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature."

Renumber: subsequent sections

147. Page 13, line 22.

Strike: "17"

Insert: "23"

148. Page 13, lines 25 and 26.

Following: "providers" on line 25

Insert: "and marijuana-infused products providers"

Following: "cards"

Strike: "for" on line 25 through "cardholders" on line 26

149. Page 13, line 29.

Strike: "[section 5]"

Insert: "[sections 4 and 5]"

Following: ";

Strike: "and"

150. Page 13, line 30.

Strike: "17"

Insert: "23"

151. Page 14, line 2.

Strike: "17"

Insert: "23"

152. Page 15, line 25.

Strike: "that is"

Insert: "and accompanying statements"

153. Page 15, line 26.

Strike: "17"

Insert: "23"

154. Page 16, line 10.

Strike: "that is"

Insert: "and accompanying statements"

155. Page 16, line 11.

Strike: "17"

Insert: "23"

156. Page 16, line 23.

Strike: "that is"

Insert: "and accompanying statements"

Strike: "17"

Insert: "23"

157. Page 19, line 18.

Strike: "12"

Insert: "15"

158. Page 19, line 19.

Insert: "**Section 29.** Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under [section 3];

~~(f)~~(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

Insert: "Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Insert: "Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Renumber: subsequent sections

159. Page 20, line 29.

Insert: "NEW SECTION. **Section 33. Emergency rulemaking.** The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011."

Renumber: subsequent sections

160. Page 21, line 13.

Following: "this"

Strike: "act"

Insert: "section"

161. Page 21.

Following: line 14

Insert: "(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptom's of the cardholder's debilitating medical condition."

Renumber: subsequent subsection

162. Page 21, line 15 through line 16.

Strike: "July" on line 15 through "2011," on line 16

Insert: "[the effective date of this section]"

Following: "possession of"

Insert: "mature"

163. Page 21, line 17.

Following: the first "2011"

Insert: ", if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2)"

Following: "2011,"

Strike: "the"

Insert: "a"

Following: "caregiver"

Insert: "who has not obtained a registry identification card pursuant to [sections 1 through 23]"

Strike: "the items"

Insert: "any mature marijuana plants, seedlings, cuttings,

clones, usable marijuana, or marijuana-related products
still in the caregiver's possession"

164. Page 21, line 21.

Strike: "17"

Insert: "23"

165. Page 21, line 23.

Strike: "17"

Insert: "23"

166. Page 21, line 25 through line 27.

Strike: "(1) If" on line 25 through "(2)" on line 27

167. Page 22, line 7.

Strike: "7"

Insert: "11"

168. Page 22, line 13.

Strike: "date"

Insert: "dates"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

169. Page 22, line 14.

Insert: "(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103
provided for in section 34, and sections 35 and 38], and
this section are effective on passage and approval."

- END -

SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A ~~SYSTEM OF LICENSING~~ REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ~~CREATING A SPECIAL REVENUE ACCOUNT;~~ ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, 69-1-114, AND 69-1-401,~~ MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

~~WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND~~

~~WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND~~

~~WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT;~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading -- Blue Bill) 3/30

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 47 ~~23~~] may be cited as the "Montana Marijuana Act".

1 (2) The purpose of [sections 1 through 47 23] is to:

2 (a) provide legal protections to persons with debilitating medical conditions who engage in the use of
3 marijuana to alleviate the symptoms of the debilitating medical condition;

4 (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
5 [sections 1 through 47 23] by persons who obtain registry identification cards; ~~and~~

6 (C) ALLOW INDIVIDUALS TO ASSIST A LIMITED NUMBER OF REGISTERED CARDHOLDERS WITH THE CULTIVATION
7 AND MANUFACTURE OF MARIJUANA OR MARIJUANA-INFUSED PRODUCTS;

8 (D) ESTABLISH REPORTING REQUIREMENTS FOR PRODUCTION OF MARIJUANA AND MARIJUANA-INFUSED
9 PRODUCTS AND INSPECTION REQUIREMENTS FOR PREMISES; AND

10 ~~(e)~~(E) give local governments a role in establishing standards for the cultivation, manufacture, and use
11 of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

12
13 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 47 23], the following definitions
14 apply:

15 (1) "CORRECTIONAL FACILITY OR PROGRAM" MEANS A FACILITY OR PROGRAM THAT IS DESCRIBED IN 53-1-202
16 AND TO WHICH A PERSON MAY BE ORDERED BY ANY COURT OF COMPETENT JURISDICTION.

17 ~~(4)(2) "Debilitating medical condition" means: a medical condition determined by a physician to be~~
18 ~~debilitating for the person diagnosed with the condition~~

19 (A) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE
20 DEFICIENCY SYNDROME WHEN THE CONDITION OR DISEASE RESULTS IN SYMPTOMS THAT SERIOUSLY AND ADVERSELY
21 AFFECT THE PATIENT'S HEALTH STATUS;

22 (B) CACHEXIA OR WASTING SYNDROME;

23 (C) SEVERE CHRONIC PAIN THAT IS PERSISTENT PAIN OF SEVERE INTENSITY THAT SIGNIFICANTLY INTERFERES
24 WITH DAILY ACTIVITIES AS DOCUMENTED BY THE PATIENT'S TREATING PHYSICIAN AND BY:

25 (I) OBJECTIVE PROOF OF THE ETIOLOGY OF THE PAIN, INCLUDING DIAGNOSTIC TESTS THAT MAY INCLUDE BUT ARE
26 NOT LIMITED TO THE RESULTS OF AN X-RAY, COMPUTERIZED TOMOGRAPHY SCAN, OR MAGNETIC RESONANCE IMAGING;
27 OR

28 (II) CONFIRMATION OF THAT DIAGNOSIS FROM A SECOND PHYSICIAN WHO IS INDEPENDENT OF THE TREATING
29 PHYSICIAN AND WHO CONDUCTS A PHYSICAL EXAMINATION;

30 (D) INTRACTABLE NAUSEA OR VOMITING;

1 (E) EPILEPSY OR AN INTRACTABLE SEIZURE DISORDER;

2 (F) MULTIPLE SCLEROSIS;

3 (G) CROHN'S DISEASE;

4 (H) PAINFUL PERIPHERAL NEUROPATHY;

5 (I) A CENTRAL NERVOUS SYSTEM DISORDER RESULTING IN CHRONIC, PAINFUL SPASTICITY OR MUSCLE SPASMS;

6 (J) ADMITTANCE INTO HOSPICE CARE IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT; OR

7 (K) ANY OTHER MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION APPROVED BY THE LEGISLATURE.

8 ~~(2)~~(3) "Department" means the department of public health and human services provided for in
9 2-15-2201.

10 ~~(3)~~(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

11 ~~(4)~~(5) "Marijuana" has the meaning provided in 50-32-101.

12 (6) (A) "MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT THAT CONTAINS MARIJUANA AND IS INTENDED FOR
13 USE BY A REGISTERED CARDHOLDER BY A MEANS OTHER THAN SMOKING.

14 (B) THE TERM INCLUDES BUT IS NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

15 (7) (A) "MARIJUANA-INFUSED PRODUCTS PROVIDER" MEANS A MONTANA RESIDENT WHO MEETS THE
16 REQUIREMENTS OF [SECTIONS 1 THROUGH 23] AND WHO HAS APPLIED FOR AND RECEIVED A REGISTRY IDENTIFICATION
17 CARD TO MANUFACTURE AND PROVIDE MARIJUANA-INFUSED PRODUCTS FOR A REGISTERED CARDHOLDER.

18 (B) THE TERM DOES NOT INCLUDE THE CARDHOLDER'S TREATING OR REFERRAL PHYSICIAN.

19 ~~(5)~~(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

20 ~~(6)~~(9) "Paraphernalia" has the meaning provided in 45-10-101.

21 ~~(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office~~
22 ~~located in Montana.~~

23 ~~(8)~~(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the
24 department to ~~cultivate, manufacture, possess, or transport marijuana for use by~~ ASSIST a registered cardholder
25 AS ALLOWED UNDER [SECTIONS 1 THROUGH 23].

26 (b) The term does not include the cardholder's TREATING PHYSICIAN OR REFERRAL physician.

27 (11) "REFERRAL PHYSICIAN" MEANS A PERSON WHO:

28 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

29 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

30 (C) IS THE PHYSICIAN TO WHOM A PATIENT'S TREATING PHYSICIAN HAS REFERRED THE PATIENT FOR PHYSICAL

1 EXAMINATION AND MEDICAL ASSESSMENT.

2 ~~(9)(12)~~ "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
3 condition who has received and maintains a valid registry identification card.

4 (13) "REGISTERED PREMISES" MEANS THE LOCATION AT WHICH A REGISTERED CARDHOLDER, PROVIDER, OR
5 MARIJUANA-INFUSED PRODUCTS PROVIDER HAS INDICATED THE PERSON WILL CULTIVATE OR MANUFACTURE MARIJUANA
6 FOR A REGISTERED CARDHOLDER.

7 ~~(10)(14)~~ "Registry identification card" means a document issued by the department pursuant to [section
8 3] that identifies a person as a registered cardholder or, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

9 ~~(11)(15)~~ (a) "Resident" means an individual who meets the requirements of 1-1-215.

10 (b) An individual is not considered a resident for the purposes of [sections 1 through 47 ~~23~~] if the
11 individual:

12 (i) claims residence in another state or country for any purpose; or

13 (ii) is an absentee property owner paying property tax on property in Montana.

14 (16) "SECOND DEGREE OF KINSHIP BY BLOOD OR MARRIAGE" MEANS A MOTHER, FATHER, BROTHER, SISTER, SON,
15 DAUGHTER, SPOUSE, GRANDPARENT, GRANDCHILD, MOTHER-IN-LAW, FATHER-IN-LAW, BROTHER-IN-LAW, SISTER-IN-LAW,
16 SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT-IN-LAW, GRANDCHILD-IN-LAW, STEPFATHER, STEPMOTHER,
17 STEPBROTHER, STEPSISTER, STEPSON, STEPDAUGHTER, STEPGRANDPARENT, OR STEPGRANDCHILD.

18 ~~(12)(17)~~ "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
19 12 inches in diameter.

20 ~~(13)(18)~~ "Standard of care" means ~~the standard established by rule by the board of medical examiners,~~
21 AT A MINIMUM, THE FOLLOWING ACTIVITIES WHEN UNDERTAKEN BY A PATIENT'S TREATING PHYSICIAN OR REFERRAL
22 PHYSICIAN IF THE TREATING PHYSICIAN OR REFERRAL PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT
23 WITH A DEBILITATING MEDICAL CONDITION:

24 (A) OBTAINING THE PATIENT'S MEDICAL HISTORY;

25 (B) PERFORMING A RELEVANT PHYSICAL EXAMINATION;

26 (C) REVIEWING PRIOR TREATMENT AND TREATMENT RESPONSE FOR THE DEBILITATING MEDICAL CONDITION;

27 (D) OBTAINING AND REVIEWING RELEVANT DIAGNOSTIC TEST RESULTS RELATED TO THE DEBILITATING MEDICAL
28 CONDITION;

29 (E) DISCUSSING WITH THE PATIENT AND ENSURING THAT THE PATIENT UNDERSTANDS THE ADVANTAGES,
30 DISADVANTAGES, ALTERNATIVES, POTENTIAL ADVERSE EFFECTS, AND EXPECTED RESPONSE TO THE RECOMMENDED

1 TREATMENT:

2 (F) MONITORING THE RESPONSE TO TREATMENT AND POSSIBLE ADVERSE EFFECTS; AND

3 (G) CREATING AND MAINTAINING PATIENT RECORDS THAT REMAIN WITH THE PHYSICIAN.

4 (19) "TREATING PHYSICIAN" MEANS A PERSON WHO:

5 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

6 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

7 (C) HAS A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON APPLYING TO BE A REGISTERED
8 CARDHOLDER.

9 ~~(14)~~(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any
10 mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person
11 with a debilitating medical condition.

12 (b) The term does not include the seeds, stalks, and roots of the plant.

13 ~~(15)~~(21) "Written certification" means a statement signed by a treating physician OR REFERRAL PHYSICIAN
14 that meets the requirements of [section 6 7] and is provided in a manner that meets the standard of care.

15
16 NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality --
17 reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification
18 cards to Montana residents who:

19 (i) have debilitating medical conditions and who submit applications meeting the requirements of
20 [sections 1 through 47 23]; and

21 (ii) are named as providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS by persons who obtain registry
22 identification cards for their debilitating medical conditions.

23 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
24 and transport marijuana as allowed by [sections 1 through 47 23].

25 (2) The department shall conduct criminal history background checks as required by [sections 4 and 5]
26 before issuing a registry identification card for a person named as a provider OR MARIJUANA-INFUSED PRODUCTS
27 PROVIDER.

28 (3) Registry identification cards issued pursuant to [sections 1 through 47 23] must:

29 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
30 which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition ~~or for~~ a provider, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to [sections 1 through ~~47~~ 23] and shall approve or deny an application or renewal within ~~45~~ 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within ~~45~~ 5 days of approving an application or renewal.

(5) REJECTION OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DEPARTMENT ACTION, SUBJECT TO JUDICIAL REVIEW.

~~(5)(6)~~ (A) Registry identification cards expire 1 year after the date of issuance unless:

(i) A PHYSICIAN HAS PROVIDED A WRITTEN CERTIFICATION STATING THAT A CARD IS VALID FOR A SHORTER PERIOD OF TIME; OR

(ii) a registered cardholder changes providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(B) A provider's OR MARIJUANA-INFUSED PRODUCTS PROVIDER'S registry identification card expires at the time the department issues a card to a new provider OR NEW MARIJUANA-INFUSED PRODUCTS PROVIDERS named by a registered cardholder.

~~(6)(7)~~ (7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, ~~or~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~(7)(8)~~ (8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection ~~(8)~~ (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

~~(8)(9)~~ The department shall provide the names of registered cardholders ~~and~~ providers, AND MARIJUANA-INFUSED PRODUCTS PROVIDERS to the local law enforcement agency having jurisdiction in the area in which the cardholders ~~or~~ providers, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS ~~live~~ ARE LOCATED. The law enforcement agency and its employees are subject to the confidentiality requirements of [section ~~14~~ 17].

~~(9)(10)~~ (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 15 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

~~(10)(11)~~ The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders ~~or~~ physicians, PROVIDERS, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE ON:

(A) THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA, PURSUANT TO 37-3-203; AND

(B) THE NUMBER OF PHYSICIANS WHOSE NAMES WERE PROVIDED TO THE BOARD BY THE DEPARTMENT AS REQUIRED UNDER SUBSECTION (10). THE REPORT MUST INCLUDE INFORMATION ON WHETHER A PHYSICIAN WHOSE PRACTICES WERE REVIEWED BY THE BOARD PURSUANT TO SUBSECTION (10) MET THE STANDARD OF CARE WHEN PROVIDING WRITTEN CERTIFICATIONS.

NEWSECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) and (3), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

1 (a) an application on a form prescribed by the department;

2 (b) an application fee or a renewal fee;

3 (c) the person's name, street address, and date of birth;

4 (d) proof of Montana residency;

5 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
6 will be obtaining marijuana from a provider OR A MARIJUANA-INFUSED PRODUCTS PROVIDER;

7 (F) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY
8 OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES, MANUFACTURES, OR OBTAINS FOR THE PERSON'S
9 DEBILITATING MEDICAL CONDITION;

10 ~~(f)~~(G) the name of the person's treating physician OR REFERRAL PHYSICIAN and the street address and
11 telephone number of the physician's office;

12 ~~(g)~~(H) the street address where the person is cultivating or manufacturing marijuana if the person is
13 cultivating or manufacturing marijuana for the person's own use;

14 ~~(h)~~(I) the name, date of birth, and street address of the individual the person has selected as a provider
15 OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any; and

16 ~~(i)~~(J) ~~a statement~~ THE WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS from the person's treating
17 physician OR REFERRAL PHYSICIAN as required pursuant to [section 6 7].

18 (2) The department shall issue a registry identification card to a minor if the materials required under
19 subsection ~~(2)~~ (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
20 care decisions;

21 (A) PROVIDES PROOF OF LEGAL GUARDIANSHIP AND RESPONSIBILITY FOR HEALTH CARE DECISIONS IF THE PERSON
22 IS SUBMITTING AN APPLICATION AS THE MINOR'S LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS;
23 AND

24 (B) signs and submits a written statement that:

25 ~~(a)~~(I) the minor's TREATING physician OR REFERRAL PHYSICIAN has explained to the minor and to the
26 minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and
27 benefits of the use of marijuana; and

28 ~~(b)~~(II) the minor's custodial parent or legal guardian with responsibility for health care decisions:

29 ~~(i)~~(A) consents to the use of marijuana by the minor;

30 ~~(ii)~~(B) agrees to serve as the minor's MARIJUANA-INFUSED PRODUCTS provider;

1 ~~(iii)(C)~~ agrees to control the acquisition of marijuana and the dosage and frequency of the use of
2 marijuana by the minor; ~~and~~

3 (D) AGREES THAT THE MINOR WILL USE ONLY MARIJUANA-INFUSED PRODUCTS AND WILL NOT SMOKE MARIJUANA;

4 ~~(iv)(C) undergoes a name-based~~ SUBMITS FINGERPRINTS TO FACILITATE A FINGERPRINT AND background
5 check BY THE DEPARTMENT OF JUSTICE AND FEDERAL BUREAU OF INVESTIGATION. The parent or legal guardian shall
6 pay the costs of the background check AND MAY NOT OBTAIN A REGISTRY IDENTIFICATION CARD AS A
7 MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PARENT OR LEGAL GUARDIAN DOES NOT MEET THE REQUIREMENTS OF
8 [SECTION 5].

9 (D) PLEDGES, ON A FORM PRESCRIBED BY THE DEPARTMENT, NOT TO DIVERT TO ANY PERSON ANY MARIJUANA
10 CULTIVATED OR MANUFACTURED FOR THE MINOR'S USE IN A MARIJUANA-INFUSED PRODUCT.

11 (3) A person may not be a registered cardholder if the person is in the custody of or under the
12 supervision of the department of corrections ~~or, OR a youth court, A DISTRICT COURT, OR A COURT OF LIMITED~~
13 ~~JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL~~
14 ~~SUPERVISION OR ENFORCEMENT PROGRAM.~~

15 (4) A registered cardholder who elects to obtain marijuana from a provider OR MARIJUANA-INFUSED
16 PRODUCTS PROVIDER may not cultivate or manufacture marijuana for the cardholder's use UNLESS THE REGISTERED
17 CARDHOLDER IS THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

18 (5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9 10] only:

19 (a) at a property that is owned by the cardholder; or

20 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

21 (6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
22 cardholder may be shared with or rented or leased to a provider ~~or to, A MARIJUANA-INFUSED PRODUCTS PROVIDER,~~
23 OR a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to
24 each other by the second degree of kinship by blood or marriage.

25
26 **NEW SECTION. Section 5. Providers PROVIDER TYPES -- requirements -- limitations -- ACTIVITIES.**

27 (1) The department shall issue a registry identification card to OR RENEW A CARD FOR the person who is named
28 as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER in a registered cardholder's approved application if the
29 person submits to the department:

30 (a) the person's name, date of birth, and street address on a form prescribed by the department;

1 (b) proof that the person is a Montana resident;

2 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the
3 federal bureau of investigation;

4 (d) a written agreement signed by the registered cardholder THAT INDICATES WHETHER THE PERSON WILL
5 ACT AS THE CARDHOLDER'S PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

6 (E) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY
7 OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES OR MANUFACTURES FOR A REGISTERED CARDHOLDER;

8 ~~(e)(F)~~ a statement indicating whether ACKNOWLEDGING THAT the person will cultivate and manufacture
9 marijuana for the registered cardholder at ~~a property owned, rented, or leased by the cardholder or by the~~
10 ~~person; and~~ ONLY ONE LOCATION AS PROVIDED IN SUBSECTION (7). THE LOCATION MUST BE IDENTIFIED BY STREET
11 ADDRESS.

12 ~~(f)(G)~~ a fee as determined by the department to cover the costs of the fingerprint and background check
13 and associated administrative costs of processing the registration.

14 (2) The department may not register a person ~~as a provider~~ UNDER THIS SECTION if the person:

15 (a) has a felony conviction or a conviction for a drug offense;

16 (b) is in the custody of or under the supervision of the department of corrections or a youth court, ~~A~~
17 ~~DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE,~~
18 ~~COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM;~~

19 (C) HAS BEEN CONVICTED OF A VIOLATION UNDER [SECTION 16];

20 ~~(e)(D)~~ has failed to:

21 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

22 (ii) stay out of default on a government-issued student loan;

23 (iii) pay child support; or

24 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
25 agency; OR

26 (E) IS A REGISTERED CARDHOLDER WHO HAS DESIGNATED A PROVIDER OR MARIJUANA-INFUSED PRODUCTS
27 PROVIDER IN THE PERSON'S APPLICATION FOR A CARD ISSUED UNDER [SECTION 4].

28 (3) (A) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may assist only one registered cardholder
29 ~~unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related~~
30 ~~to the provider by the second degree of kinship by blood or marriage~~ A MAXIMUM OF THREE REGISTERED

1 CARDHOLDERS.

2 (B) IF THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IS A REGISTERED CARDHOLDER, THE
3 PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ASSIST A MAXIMUM OF TWO REGISTERED CARDHOLDERS
4 OTHER THAN THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

5 (4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ACCEPT REIMBURSEMENT FROM A
6 CARDHOLDER ONLY FOR THE PROVIDER'S APPLICATION OR RENEWAL FEE FOR A REGISTRY IDENTIFICATION CARD ISSUED
7 UNDER THIS SECTION.

8 ~~(4)(5)~~ Marijuana for use pursuant to [sections 1 through 17 23] must be cultivated and manufactured in
9 Montana.

10 ~~(5)(6)~~ A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not:

11 (a) accept ~~compensation~~ ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, for any services or
12 products provided to a registered cardholder;

13 (B) BUY OR SELL MATURE MARIJUANA PLANTS, SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR
14 MARIJUANA-INFUSED PRODUCTS; OR

15 ~~(b)(C)~~ use marijuana UNLESS THE PERSON IS ALSO A REGISTERED CARDHOLDER; or

16 ~~(c)(D)~~ be a registered cardholder AS BOTH A PROVIDER AND A MARIJUANA-INFUSED PRODUCTS PROVIDER.

17 ~~(6)(7)~~ (a) A ~~provider~~ PERSON REGISTERED UNDER THIS SECTION may cultivate and manufacture marijuana
18 for use by a registered cardholder only at ONE OF THE FOLLOWING LOCATIONS:

19 (i) a property that is owned by the provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

20 (ii) with written permission of the landlord, a property that is rented or leased by the provider OR
21 MARIJUANA-INFUSED PRODUCTS PROVIDER; or

22 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section
23 4].

24 (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or
25 rented or leased to another provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER or another registered cardholder.

26
27 NEW SECTION. SECTION 6. MARIJUANA-INFUSED PRODUCTS PROVIDER -- REQUIREMENTS -- ALLOWABLE
28 ACTIVITIES. (1) AN INDIVIDUAL REGISTERED AS A MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL:

29 (A) PREPARE MARIJUANA-INFUSED PRODUCTS AT A PREMISES REGISTERED WITH THE DEPARTMENT THAT IS USED
30 FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS; AND

1 (B) USE EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF
2 MARIJUANA-INFUSED PRODUCTS.

3 (2) A MARIJUANA-INFUSED PRODUCTS PROVIDER:

4 (A) MAY CULTIVATE MARIJUANA ONLY FOR THE PURPOSE OF MAKING MARIJUANA-INFUSED PRODUCTS; AND

5 (B) MAY NOT PROVIDE A CARDHOLDER WITH MARIJUANA IN A FORM THAT MAY BE USED FOR SMOKING.

6 (3) ALL REGISTERED PREMISES ON WHICH MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED MUST MEET ANY
7 APPLICABLE STANDARDS SET BY A LOCAL BOARD OF HEALTH FOR A FOOD SERVICE ESTABLISHMENT AS DEFINED IN
8 50-50-102.

9 (4) MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF TITLE
10 50, CHAPTER 31.

11
12 NEW SECTION. Section 7. ~~Physician statement~~ WRITTEN CERTIFICATION -- ACCOMPANYING
13 STATEMENTS. (1) The written certification provided by a physician must BE MADE ON A FORM PRESCRIBED BY THE
14 DEPARTMENT AND SIGNED AND DATED BY THE PHYSICIAN. THE WRITTEN CERTIFICATION MUST:

15 (A) INCLUDE THE PHYSICIAN'S NAME, LICENSE NUMBER, AND OFFICE ADDRESS AND TELEPHONE NUMBER ON FILE
16 WITH THE BOARD OF MEDICAL EXAMINERS AND THE PHYSICIAN'S BUSINESS E-MAIL ADDRESS, IF ANY; AND

17 (B) THE NAME, DATE OF BIRTH, AND DEBILITATING MEDICAL CONDITION OF THE PERSON FOR WHOM THE PHYSICIAN
18 IS PROVIDING WRITTEN CERTIFICATION.

19 (2) A TREATING PHYSICIAN OR REFERRAL PHYSICIAN WHO IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT
20 SHALL PROVIDE A STATEMENT INITIALED BY THE PHYSICIAN THAT MUST:

21 (a) confirm that the physician is;

22 (i) the person's treating physician and that the person has been under the physician's ONGOING medical
23 care and supervision AS PART OF A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON; OR

24 (ii) THE PERSON'S REFERRAL PHYSICIAN;

25 (b) confirm that the person suffers from a debilitating medical condition;

26 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which
27 it is debilitating;

28 (D) CONFIRM THAT THE PHYSICIAN HAS ASSUMED PRIMARY RESPONSIBILITY FOR PROVIDING MANAGEMENT AND
29 ROUTINE CARE OF THE PERSON'S DEBILITATING MEDICAL CONDITION AFTER OBTAINING A COMPREHENSIVE MEDICAL
30 HISTORY AND CONDUCTING A PHYSICAL EXAMINATION THAT INCLUDED A PERSONAL REVIEW OF ANY MEDICAL RECORDS

1 MAINTAINED BY OTHER PHYSICIANS AND THAT MAY HAVE INCLUDED THE PERSON'S REACTION AND RESPONSE TO
2 CONVENTIONAL MEDICAL THERAPIES;

3 ~~(d)~~(E) describe the medications, procedures, and other medical options used to treat the condition;

4 ~~(e)~~(F) state that the medications, procedures, or other medical options have not been effective;

5 (G) CONFIRM THAT THE PHYSICIAN HAS REVIEWED ALL PRESCRIPTION AND NONPRESCRIPTION MEDICATIONS AND
6 SUPPLEMENTS USED BY THE PERSON AND HAS CONSIDERED THE POTENTIAL DRUG INTERACTION WITH MARIJUANA;

7 ~~(f)~~(H) state that the physician has a reasonable degree of certainty that the person's debilitating medical
8 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit
9 from the use of marijuana;

10 (I) CONFIRM THAT THE PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE USE OF MARIJUANA
11 TO THE PERSON;

12 ~~(g)~~(J) list restrictions on the person's activities due to the use of marijuana;

13 ~~(h)~~(K) specify the time period for which the use of marijuana would be appropriate, up to a maximum of
14 1 year; and

15 ~~(i)~~(L) state that the physician will:

16 (i) continue to serve as the person's treating physician OR REFERRAL PHYSICIAN; and

17 (ii) ~~supervise~~ MONITOR the person's RESPONSE TO THE use of marijuana and evaluate the efficacy of the
18 treatment; AND

19 (M) CONTAIN AN ATTESTATION THAT THE INFORMATION PROVIDED IN THE WRITTEN CERTIFICATION AND
20 ACCOMPANYING STATEMENTS IS TRUE AND CORRECT.

21 (2) If the written certification states that marijuana should be used for less than 1 year, the department
22 shall issue a registry identification card that is valid for the period specified in the written certification.

23
24 **NEW SECTION. Section 8. Registry card to be carried and exhibited on demand -- photo**
25 **identification required.** A registered cardholder ~~or, provider,~~ OR MARIJUANA-INFUSED PRODUCTS PROVIDER shall
26 keep the ~~cardholder's or provider's~~ PERSON'S registry identification card in the person's immediate possession
27 at all times. The person shall display the registry identification card and a valid photo identification upon demand
28 of a law enforcement officer, justice of the peace, or city or municipal judge.

29
30 **NEW SECTION. Section 9. Health care facility procedures for patients with marijuana for use.** (1)

1 Except for hospices that allow the use of marijuana as provided in [section 40 11], a health care facility as defined
2 in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder
3 has marijuana in the patient's possession upon admission to the health care facility:

4 (a) require the patient to remove the marijuana from the premises before the patient is admitted if the
5 patient is able to do so;

6 (b) make a reasonable effort to contact the patient's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER,
7 if any; or

8 (c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

9 (2) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER contacted by a health care facility shall remove
10 the marijuana and deliver it to the patient's residence.

11 (3) A law enforcement agency contacted by a health care facility shall respond by removing and
12 destroying the marijuana.

13 (4) A health care facility may not be charged for costs related to removal of the marijuana from the
14 facility's premises.

15
16 **NEW SECTION. Section 10. Legal protections -- allowable amounts.** (1) (a) A registered cardholder
17 may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

18 (b) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may possess ~~the amounts allowed under~~
19 ~~subsection (1)(a)~~ 4 MATURE PLANTS, 12 SEEDLINGS, AND 1 OUNCE OF USABLE MARIJUANA for each registered
20 cardholder who has named the person as the registered cardholder's provider.

21 (2) Except as provided in [section 40 11] and subject to the provisions of subsection (7), an individual
22 who possesses a registry identification card issued pursuant to [sections 1 through 47 23] may not be arrested,
23 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty
24 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

25 (a) the ~~registered cardholder or provider~~ INDIVIDUAL cultivates, manufactures, possesses, or transports
26 marijuana in the amounts allowed under this section; or

27 (b) the registered cardholder acquires or uses marijuana.

28 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
29 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
30 department of labor and industry, solely for providing written certification for a patient with a debilitating medical

1 condition.

2 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
3 professional licensing board or the department of labor and industry if:

4 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

5 (b) a physician violates the standard of care or other requirements of [sections 1 through 47 23].

6 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
7 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
8 of the use of marijuana as permitted under [sections 1 through 47 23].

9 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
10 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
11 a registered cardholder.

12 (6) ~~Possession~~ EXCEPT AS PROVIDED IN [SECTION 14], POSSESSION of or application for a registry
13 identification card does not alone constitute probable cause to search the individual or the property of the
14 individual possessing or applying for the registry identification card or otherwise subject the individual or property
15 of the individual possessing or applying for the card to inspection by any governmental agency, including a law
16 enforcement agency.

17 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
18 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal
19 charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an
20 arrest or the filing of a criminal charge.

21 (8) (A) A REGISTERED CARDHOLDER, A PROVIDER, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER IS PRESUMED
22 TO BE ENGAGED IN THE USE OF MARIJUANA AS ALLOWED BY [SECTIONS 1 THROUGH 23] IF THE PERSON:

23 (I) IS IN POSSESSION OF A VALID REGISTRY IDENTIFICATION CARD; AND

24 (II) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE AMOUNT PERMITTED UNDER
25 [SECTIONS 1 THROUGH 23].

26 (B) THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT THE POSSESSION OF MARIJUANA WAS NOT FOR THE
27 PURPOSE OF ALLEVIATING THE SYMPTOMS OR EFFECTS OF A REGISTERED CARDHOLDER'S DEBILITATING MEDICAL
28 CONDITION.

29
30 NEW SECTION. Section 11. Limitations of the act. (1) [Sections 1 through 47 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) ~~in~~ WHEN ORDERED BY ANY COURT OF COMPETENT JURISDICTION INTO a correctional facility, INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203 OR PROGRAM;

(VII) IF A COURT HAS IMPOSED RESTRICTIONS ON THE CARDHOLDER'S USE PURSUANT TO 46-18-202;

~~(vii)~~ (VIII) at a public park, public beach, public recreation center, or youth center;

~~(viii)~~ (IX) in or on the property of any church, synagogue, or other place of worship;

~~(ix)~~ (X) in plain view of or in a place open to the general public; ~~or~~ OR

~~(x)~~ (XI) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children; ~~OR~~

~~(xi) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM.~~

(2) A registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice OR RESIDENTIAL CARE FACILITY licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 47 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a ~~person with a debilitating medical condition~~ REGISTERED CARDHOLDER;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder ~~or a provider~~, OR MARIJUANA-INFUSED PRODUCTS PROVIDER to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 47 23] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 47 23] may be construed to allow a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER to use marijuana or to prevent criminal prosecution of a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a ~~registered cardholder or provider~~ PERSON WITH A VALID REGISTRY IDENTIFICATION CARD is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of ~~3-5~~ 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder ~~or a provider~~, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

NEW SECTION. SECTION 12. PROHIBITIONS ON PHYSICIAN AFFILIATION WITH PROVIDERS AND

1 **MARIJUANA-INFUSED PRODUCTS PROVIDERS -- SANCTIONS.** (1) (A) A PHYSICIAN WHO PROVIDES WRITTEN CERTIFICATIONS
2 MAY NOT:

3 (I) ACCEPT OR SOLICIT ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, FROM A PROVIDER OR
4 MARIJUANA-INFUSED PRODUCTS PROVIDER;

5 (II) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A PERSON WHO USES OR AGREES TO USE A
6 PARTICULAR PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER; OR

7 (III) EXAMINE A PATIENT FOR THE PURPOSES OF DIAGNOSING A DEBILITATING MEDICAL CONDITION AT A LOCATION
8 WHERE MEDICAL MARIJUANA IS CULTIVATED OR MANUFACTURED OR WHERE MARIJUANA-INFUSED PRODUCTS ARE MADE.

9 (B) SUBSECTION (1)(A) DOES NOT PREVENT A PHYSICIAN FROM ACCEPTING A FEE FOR PROVIDING MEDICAL CARE
10 TO A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PHYSICIAN CHARGES THE PERSON THE SAME FEE
11 THAT THE PHYSICIAN CHARGES OTHER PATIENTS FOR PROVIDING A SIMILAR LEVEL OF MEDICAL CARE.

12 (2) IF THE DEPARTMENT HAS CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED THIS SECTION, HAS VIOLATED
13 A PROVISION OF RULES ADOPTED PURSUANT TO THIS CHAPTER, OR HAS NOT MET THE STANDARD OF CARE REQUIRED
14 UNDER THIS CHAPTER, THE DEPARTMENT MAY REFER THE MATTER TO THE BOARD OF MEDICAL EXAMINERS PROVIDED FOR
15 IN 2-15-1731 FOR REVIEW PURSUANT TO 37-1-308.

16 (3) A VIOLATION OF THIS SECTION CONSTITUTES UNPROFESSIONAL CONDUCT UNDER 37-1-316. IF THE BOARD
17 OF MEDICAL EXAMINERS FINDS THAT A PHYSICIAN HAS VIOLATED THIS SECTION, THE BOARD SHALL RESTRICT THE
18 PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA. THE BOARD OF MEDICAL
19 EXAMINERS SHALL NOTIFY THE DEPARTMENT OF THE SANCTION.

20 (4) IF THE BOARD OF MEDICAL EXAMINERS BELIEVES A PHYSICIAN'S PRACTICES MAY HARM THE PUBLIC HEALTH,
21 SAFETY, OR WELFARE, THE BOARD MAY SUMMARILY RESTRICT A PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN
22 CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA.

23
24 **NEWSECTION. Section 13. Local government authority to regulate.** (1) To protect the public health,
25 safety, or welfare, a local government may by ordinance or resolution regulate a provider OR MARIJUANA-INFUSED
26 PRODUCTS PROVIDER that operates within the local government's jurisdictional area. The regulations may include
27 but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure
28 compliance with any public health, safety, and welfare requirements established by the department or the local
29 government.

30 (2) A LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE OR RESOLUTION PROHIBITING PROVIDERS AND

MARIJUANA-INFUSED PRODUCTS PROVIDERS FROM OPERATING AS STOREFRONT BUSINESSES.

NEW SECTION. SECTION 14. INSPECTION PROCEDURES. (1) THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES MAY CONDUCT FREQUENT, UNANNOUNCED INSPECTIONS OF REGISTERED PREMISES.

(2) (A) EACH PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL KEEP A COMPLETE SET OF RECORDS NECESSARY TO SHOW ALL TRANSACTIONS WITH REGISTERED CARDHOLDERS. THE RECORDS MUST BE OPEN FOR INSPECTION BY THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES AT ANY TIME.

(B) THE DEPARTMENT MAY REQUIRE A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER TO FURNISH INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF [SECTIONS 1 THROUGH 23].

(3) (A) A REGISTERED PREMISES, INCLUDING ANY PLACES OF STORAGE, WHERE MARIJUANA IS CULTIVATED, MANUFACTURED, OR STORED IS SUBJECT TO ENTRY BY THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT AGENCIES FOR THE PURPOSE OF INSPECTION OR INVESTIGATION.

(B) IF ANY PART OF THE REGISTERED PREMISES CONSISTS OF A LOCKED AREA, THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAKE THE AREA AVAILABLE FOR INSPECTION WITHOUT DELAY UPON REQUEST OF THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

(4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAINTAIN RECORDS SHOWING THE NAMES AND REGISTRY IDENTIFICATION NUMBERS OF REGISTERED CARDHOLDERS TO WHOM MATURE PLANTS, SEEDLINGS, USABLE MARIJUANA, OR MARIJUANA-INFUSED PRODUCTS WERE TRANSFERRED AND THE QUANTITIES TRANSFERRED TO EACH CARDHOLDER.

NEW SECTION. Section 15. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the ~~cardholder's~~ PERSON'S:

(i) registry identification card; or

(ii) MATURE marijuana plants ~~or~~, SEEDLINGS, usable marijuana, OR MARIJUANA-INFUSED PRODUCTS.

(2) A registered cardholder ~~or a~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates [sections 1 through 47 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 47 23] or unless the violation

1 would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and
2 prosecuted pursuant to the provisions of Title 45.

3
4 **NEW SECTION. Section 16. Fraudulent representation -- penalties.** (1) In addition to any other
5 penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is
6 a registered cardholder ~~or a provider,~~ OR MARIJUANA-INFUSED PRODUCTS PROVIDER is guilty of a ~~felony~~
7 ~~MISDEMEANOR~~ punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for ~~A TERM not less than~~ TO EXCEED
8 ~~1 year or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

9 (2) A physician who purposely and knowingly misrepresents any information required under [section 6
10 ~~7]~~ is guilty of a ~~felony~~ MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for ~~not less than~~
11 ~~A TERM NOT TO EXCEED~~ 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

12 (3) A PERSON CONVICTED UNDER THIS SECTION MAY NOT BE REGISTERED AS A PROVIDER OR
13 MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER [SECTION 5].

14
15 **NEW SECTION. Section 17. Confidentiality of registry information -- penalty.** (1) ~~A~~ EXCEPT AS
16 PROVIDED IN 37-3-203, A person, including an employee or official of the department of public health and human
17 services, commits the offense of disclosure of confidential information related to registry information if the person
18 knowingly or purposely discloses confidential information in violation of [sections 1 through ~~47~~ 23].

19 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
20 in the county jail for a term not to exceed 6 months, or both.

21
22 **NEW SECTION. Section 18. Law enforcement authority.** Nothing in this chapter may be construed
23 to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a ~~debilitating~~
24 ~~medical condition or the person's provider~~ REGISTRY IDENTIFICATION CARD.

25
26 **NEW SECTION. Section 19. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
27 property seized by a law enforcement official from a person claiming the protections of [sections 1 through ~~47~~ 23]
28 in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must
29 be returned to the person immediately upon a determination that the person is in compliance with the provisions
30 of [sections 1 through ~~47~~ 23].

(2) A law enforcement agency in possession of MATURE marijuana plants OR SEEDLINGS seized as evidence is not responsible for the care and maintenance of the plants OR SEEDLINGS.

NEW SECTION. SECTION 20. ADVERTISING PROHIBITED. PERSONS WITH VALID REGISTRY IDENTIFICATION CARDS MAY NOT ADVERTISE MARIJUANA OR MARIJUANA-RELATED PRODUCTS IN ANY MEDIUM, INCLUDING ELECTRONIC MEDIA.

NEW SECTION. SECTION 21. HOTLINE. (1) THE DEPARTMENT SHALL CREATE AND MAINTAIN A HOTLINE TO RECEIVE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23].

(2) THE DEPARTMENT MAY:

(A) INVESTIGATE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23]; OR

(B) REFER REPORTS OF SUSPECTED ABUSE TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN THE AREA WHERE THE SUSPECTED ABUSE IS OCCURRING.

NEW SECTION. SECTION 22. LEGISLATIVE MONITORING.(1) THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE SHALL PROVIDE OVERSIGHT OF THE DEPARTMENT'S ACTIVITIES RELATED TO REGISTERING INDIVIDUALS PURSUANT TO [SECTIONS 1 THROUGH 23] AND OF ISSUES RELATED TO THE CULTIVATION, MANUFACTURE, AND USE OF MARIJUANA PURSUANT TO [SECTIONS 1 THROUGH 23].

(2) THE COMMITTEE SHALL IDENTIFY ISSUES LIKELY TO REQUIRE FUTURE LEGISLATIVE ATTENTION AND DEVELOP LEGISLATION TO PRESENT TO THE NEXT REGULAR SESSION OF THE LEGISLATURE.

NEW SECTION. SECTION 23. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 47 ~~23~~]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS and for persons with debilitating medical conditions and renewal of registry identification cards ~~for providers and registered cardholders~~;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under ~~[section 5]~~ [SECTIONS 4 AND 5]; and

(d) other rules necessary to implement the purposes of [sections 1 through 47 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 47 23].

Section 24. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice

1 the profession or occupation with reasonable skill and safety;

2 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
3 disease involving serious risk to public health or without taking adequate precautions, including but not limited
4 to informed consent, protective gear, or cessation of practice;

5 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
6 regarding the accounting and distribution of a client's property or funds;

7 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
8 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
9 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
10 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
11 filed, prosecuted, or completed;

12 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
13 organization to practice or offer to practice by use of the licensee's license;

14 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
15 appeal, against the licensee or of an action against the licensee by a:

16 (a) peer review committee;

17 (b) professional association; or

18 (c) local, state, federal, territorial, provincial, or Indian tribal government;

19 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
20 implementing 28-10-103(3)(a);

21 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
22 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
23 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
24 to prove conduct that does not meet generally accepted standards;

25 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
26 for the written certification that is AND ACCOMPANYING STATEMENTS used to apply for a registry identification card
27 pursuant to [sections 1 through 47 23]."

28
29 **Section 25.** Section 37-3-343, MCA, is amended to read:

30 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**

1 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
2 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

3 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
4 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
5 to become board-certified and on which the physician bases the physician's application for a telemedicine license
6 pursuant to 37-3-345(2).

7 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A
8 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
9 present within the state.

10 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
11 for the written certification ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card
12 pursuant to [sections 1 through 47 23].

13 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
14 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
15 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
16 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

17
18 **Section 26.** Section 37-3-347, MCA, is amended to read:

19 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
20 deny an application for a telemedicine license if the applicant:

21 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
22 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

23 (b) plans to use telemedicine as a means to obtain the information required for the written certification
24 ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card pursuant to [sections 1
25 through 47 23].

26 ~~(b)~~(c) fails to pay a required fee;

27 ~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

28 ~~(d)~~(e) has committed unprofessional conduct.

29 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
30 apply for a physician's license in order to practice medicine in Montana."

1
2 **Section 27.** Section 41-5-216, MCA, is amended to read:

3 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
4 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
5 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
6 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
7 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
8 extended jurisdiction.

9 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
10 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
11 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
12 court.

13 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
14 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

15 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
16 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
17 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
18 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
19 offender pursuant to Title 46, chapter 23, part 5.

20 (5) After formal youth court records, law enforcement records, and department records are sealed, they
21 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
22 a new offense, to:

23 (a) those persons and agencies listed in 41-5-215(2); and

24 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
25 age of majority.

26 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
27 under subsection (1), the electronic records of the management information system maintained by the department
28 of public health and human services and by the department relating to the youth whose records are being sealed
29 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

30 (b) The department of public health and human services and the department shall disassociate the

1 offense and disposition information from the name of the youth in the respective management information system.

2 The offense and disposition information must be maintained separately and may be used only:

3 (i) for research and program evaluation authorized by the department of public health and human
4 services or by the department and subject to any applicable laws; and

5 (ii) as provided in Title 5, chapter 13.

6 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
7 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
8 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
9 only pursuant to subsection (5).

10 (b) The informal youth court records may be maintained and inspected only by youth court personnel
11 upon a new offense prior to the youth's 18th birthday.

12 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
13 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
14 in hard-copy form must be destroyed and any electronic records in the youth court management information
15 system must disassociate the offense and disposition information from the name of the youth and may be used
16 only for the following purposes:

17 (i) for research and program evaluation authorized by the office of the court administrator and subject
18 to any applicable laws; and

19 (ii) as provided in Title 5, chapter 13.

20 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
21 court records within the juvenile probation management information system. Electronic records of the youth court
22 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
23 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
24 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
25 as provided in subsection (2) of this section.

26 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
27 court records within the department's youth management information system. Electronic records of the
28 department's youth management information system may not be shared except as provided in subsection (5).
29 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
30 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy

1 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

2 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
3 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
4 of a youth within the facility.

5 (11) This section does not prohibit access to formal or informal youth court records, including electronic
6 records, for purposes of conducting evaluations as required by 41-5-2003.

7 (12) This section does not prohibit the office of court administrator, upon written request from the
8 department of public health and human services, from confirming whether a person applying for a registry
9 identification card pursuant to [section 4 or 5] is currently under youth court supervision."

10
11 **Section 28.** Section 45-9-203, MCA, is amended to read:

12 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
13 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
14 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
15 to the department for issuance of a probationary license under 61-2-302.

16 (2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an
17 offense under this chapter, the court shall:

18 (a) at the time of sentencing, require the person to surrender the registry identification card; and

19 (b) notify the department of public health and human services of the conviction in order for the
20 department to carry out its duties under [section 42 15]."

21
22 **SECTION 29. SECTION 46-18-202, MCA, IS AMENDED TO READ:**

23 **"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
24 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
25 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

26 (a) prohibition of the offender's holding public office;

27 (b) prohibition of the offender's owning or carrying a dangerous weapon;

28 (c) restrictions on the offender's freedom of association;

29 (d) restrictions on the offender's freedom of movement;

30 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title

1 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

2 (f) a requirement that the offender surrender any registry identification card issued under [section 3];

3 (f)(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the
4 victim and society.

5 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
6 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
7 and participation in the supervised release program while serving that term. If the restriction is to be imposed,
8 the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is
9 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
10 judgment must contain a statement of the reasons for the restriction.

11 (3) If a sentencing judge requires an offender to surrender a registry identification card issued under
12 [section 3], the court shall return the card to the department of public health and human services and provide the
13 department with information on the offender's sentence. The department shall revoke the card for the duration
14 of the sentence and shall return the card if the offender successfully completes the terms of the sentence before
15 the expiration date listed on the card."

16

17 **SECTION 30. SECTION 50-46-201, MCA, IS AMENDED TO READ:**

18 **"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of**
19 **medical use.** (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the
20 effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right
21 or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the
22 department of labor and industry, if:

23 (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers,
24 or transports marijuana not in excess of the amounts allowed in subsection (2); or

25 (b) the qualifying patient uses marijuana for medical use.

26 (2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana
27 plants and 1 ounce of usable marijuana each.

28 (3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the
29 qualifying patient or caregiver:

30 (i) is in possession of a registry identification card; and

1 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under
2 subsection (2).

3 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
4 purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

5 (4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
6 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
7 department of labor and industry, for providing written certification for the medical use of marijuana to qualifying
8 patients.

9 (5) An interest in or right to property that is possessed, owned, or used in connection with the medical
10 use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for
11 the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

12 (6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as
13 provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity
14 of the medical use of marijuana as permitted under this chapter.

15 (7) Possession of or application for a registry identification card does not alone constitute probable cause
16 to search the person or property of the person possessing or applying for the registry identification card or
17 otherwise subject the person or property of the person possessing or applying for the card to inspection by any
18 governmental agency, including a law enforcement agency.

19 (8) A registry identification card or its equivalent issued by another state government to permit the
20 medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical
21 use of marijuana has the same force and effect as a registry identification card issued by the department."
22

23 **SECTION 31. SECTION 50-46-202, MCA, IS AMENDED TO READ:**

24 **"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.**

25 **(1) The department shall maintain a confidential list of the persons to whom the department has issued registry**
26 **identification cards. Individual names and other identifying information on the list must be confidential and are not**
27 **subject to disclosure except to:**

28 **(a) authorized employees of the department as necessary to perform official duties of the department;**

29 **or**

30 **(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful**

1 possessor of a registry identification card.

2 ~~(1)~~(2) A person, including an employee or official of the department or other state or local government
3 agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the
4 person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

5 ~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana
6 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

7

8 **Section 32.** Section 61-11-101, MCA, is amended to read:

9 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**

10 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
11 the suspension or revocation of the driver's license or commercial driver's license of the person by the
12 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
13 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
14 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
15 indicate that fact in its report to the department.

16 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
17 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
18 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
19 the conviction becomes final. The court may recommend that the department issue a restricted probationary
20 license on the condition that the individual comply with the requirement that the person attend and complete a
21 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

22 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
23 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
24 upon which it is based to the department within 5 days on forms furnished by the department.

25 (4) A conviction becomes final for the purposes of this part upon the later of:

26 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

27 (b) forfeiture of bail that is not vacated; or

28 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
29 execution of a sentence.

30 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license

1 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
2 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
3 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
4 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
5 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
6 person who holds any other type of driver's license.

7 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
8 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
9 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
10 subsection (1).

11 (6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is
12 convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the
13 initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court
14 in which the conviction occurs shall require the person to surrender the registry identification card.

15 (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card
16 and a copy of the conviction to the department of public health and human services."

17
18 **NEW SECTION. SECTION 33. EMERGENCY RULEMAKING.** THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
19 SERVICES SHALL ADOPT EMERGENCY RULES AS PROVIDED IN 2-4-303 TO ALLOW FOR ISSUANCE OF REGISTRY
20 IDENTIFICATION CARDS IN ACCORDANCE WITH THE PROVISIONS OF [SECTIONS 1 THROUGH 23] BEGINNING JUNE 1, 2011.

21
22 **NEW SECTION. Section 34. Repealer.** The following sections of the Montana Code Annotated are
23 repealed:

24 50-46-101. Short title.

25 50-46-102. Definitions.

26 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

27 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

28 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

29 50-46-205. Limitations of Medical Marijuana Act.

30 50-46-206. Affirmative defense.

1 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

2 50-46-210. Rulemaking -- fees.

3

4 NEW SECTION. Section 35. Transition. (1) Registry identification cards issued to persons with
5 debilitating medical conditions prior to [the effective date of this ~~act~~ SECTION] are valid until the expiration date
6 listed on the card.

7 (2) (A) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY ISSUE REGISTRY IDENTIFICATION CARDS
8 TO PERSONS WITH DEBILITATING MEDICAL CONDITIONS AND TO THE PERSONS NAMED AS PROVIDERS OR
9 MARIJUANA-INFUSED PRODUCTS PROVIDERS BEGINNING JUNE 1, 2011, UNDER EMERGENCY RULES ADOPTED PURSUANT
10 TO [SECTION 33].

11 (B) UNTIL OCTOBER 1, 2011, THE DEPARTMENT MAY ISSUE CARDS TO PERSONS APPLYING AS PROVIDERS OR
12 MARIJUANA-INFUSED PRODUCTS PROVIDERS BEFORE THE DEPARTMENT HAS OBTAINED THE RESULTS OF THE FINGERPRINT
13 AND BACKGROUND CHECK REQUIRED UNDER [SECTIONS 4 AND 5].

14 (C) A PERSON WHO OBTAINS A REGISTRY IDENTIFICATION CARD AS A PROVIDER OR MARIJUANA-INFUSED
15 PRODUCTS PROVIDER BEFORE OCTOBER 1, 2011, SHALL SUBMIT FINGERPRINTS AS REQUIRED BY [SECTIONS 4 AND 5] NO
16 LATER THAN OCTOBER 1, 2011.

17 (3) (A) THE DEPARTMENT SHALL REVOKE THE REGISTRY IDENTIFICATION CARD ISSUED TO A PROVIDER OR
18 MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER SUBSECTION (2) IF:

19 (I) THE PERSON FAILS TO SUBMIT FINGERPRINTS BY OCTOBER 1, 2011; OR

20 (II) THE RESULTS OF A FINGERPRINT AND BACKGROUND CHECK CONDUCTED AFTER ISSUANCE OF THE CARD
21 SHOWS THAT THE PERSON IS INELIGIBLE FOR THE CARD.

22 (B) THE DEPARTMENT SHALL NOTIFY THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER AND THE
23 REGISTERED CARDHOLDER WHO NAMED THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER THAT THE PERSON
24 MAY NO LONGER ASSIST THE REGISTERED CARDHOLDER WITH THE USE OF MARIJUANA TO ALLEVIATE THE SYMPTOMS OF
25 THE CARDHOLDER'S DEBILITATING MEDICAL CONDITION.

26 (2)(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before
27 July 1, 2011; [THE EFFECTIVE DATE OF THIS SECTION] may not be in possession of MATURE marijuana plants,
28 seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, IF THE PERSON HAS
29 NOT OBTAINED A REGISTRY IDENTIFICATION CARD PURSUANT TO THE PROVISIONS OF [SECTIONS 1 THROUGH 23] AS
30 PROVIDED FOR IN SUBSECTION (2). Before July 1, 2011, the A caregiver WHO HAS NOT OBTAINED A REGISTRY

1 IDENTIFICATION CARD PURSUANT TO [SECTIONS 1 THROUGH 23] shall take ~~the items~~ ANY MATURE MARIJUANA PLANTS,
2 SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR MARIJUANA-RELATED PRODUCTS STILL IN THE CAREGIVER'S
3 POSSESSION to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement
4 agency shall destroy the items.

5
6 **NEW SECTION. Section 36. Codification instruction.** [Sections 1 through 47 23] are intended to be
7 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections
8 1 through 47 23].

9
10 **COORDINATION SECTION. Section 37. Coordination instruction.** ~~(1) If both House Bill No. 161 and~~
11 ~~[this act] are passed and approved, then [this act] is void.~~

12 ~~———(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101,~~
13 ~~50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill~~
14 ~~No. 175 is void.~~

15
16 **NEW SECTION. Section 38. Instructions to code commissioner.** (1) Wherever a reference to
17 "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code
18 commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

19 (2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the
20 reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

21 (3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the
22 reference must be replaced with a reference to [section 7 11 of Senate Bill No. 423].

23
24 **NEW SECTION. Section 39. Severability.** If a part of [this act] is invalid, all valid parts that are
25 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
26 the part remains in effect in all valid applications that are severable from the invalid applications.

27
28 **NEW SECTION. Section 40. Effective date DATES.** ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION
29 (2), [THIS ACT] is effective July 1, 2011.

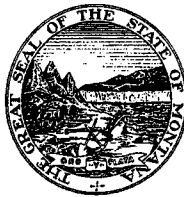
30 (2) [SECTIONS 20, 30, 31, 33, THE REPEAL OF 50-46-103 PROVIDED FOR IN SECTION 34, AND SECTIONS 35 AND

1 38]. AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.

2 - END -

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

April 28, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

Dear President Peterson:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 423 (SB 423) "AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

As presented to me, Senate Bill 423 is disappointing. In its original form, Senate Bill 423 introduced by Senator Essmann was a more substantive bill with a broader statutory scheme that included a licensing system. Numerous iterations of Senate Bill 423 surfaced during the session and over eleven amendments were proposed.

The Children, Families, Health and Human Services Interim Legislative Committee worked diligently for eighteen months, with the input of all stakeholders, devising a medical marijuana reform bill eventually introduced as House Bill 68. The interim committee heard from citizens, law enforcement officers, patients, hospice workers, growers, community leaders, etc. Like the original version of SB 423, House Bill 68 was more substantive but regrettably was set aside at the outset of the session, never to surface again.

Senate Bill 423 does have some positive provisions. It addresses the needs of law enforcement and local government. It also provides local jurisdictions the ability to ban operations within certain areas, including storefronts, which send the wrong message to children in our communities.

However, Senate Bill 423 has no licensing provisions for providers and laboratories and no genetic tracking of medical marijuana to assist in prosecuting individuals who illegally divert marijuana to non-cardholders. It abruptly shuts down the provider industry effective July 1, 2011, eliminates the jobs associated with the industry and makes access to medical marijuana very difficult for vulnerable patients. More importantly, the content of the current version of the bill ignores over forty hours of compelling testimony by the public describing patients who are suffering terribly and their reliance on "caregivers", now known as "providers" in Senate Bill 423.

As you know, I vetoed House Bill 161, the outright repeal of I-148, the 2004 citizen initiative that created our current medical marijuana law. That initiative passed with a vote of 276,042 to 170,579; almost 62% of those Montanans casting a ballot voted for the measure. It is not the role of my office or the legislative

body to pass laws that ignore the will of the people expressed at the ballot box. I believe HB 423 essentially repeals I-148.

This is the fourth session since passage of the medical marijuana initiative. I hoped this legislature would pass a law that honored the intent of the voters while providing law enforcement the necessary tools to prevent abuse and protect public safety. I agree current law is unacceptable and have spent considerable time crafting amendments to the current bill to set up a reasonable regulatory framework, missing in the provisions of I-148. My amendments to the Senate Bill 423 are constrained by the title and I am unable to address the need for licensing or legally requiring genetic tracking of the strains of marijuana. Nonetheless, I *urge* the legislature to uphold my amendatory veto.

My amendments do the following:

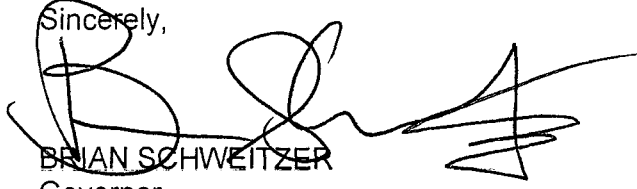
- SB 423 requires one physician for minors. While there are only 51 minors on the registry as of April 1, 2011, I believe it is appropriate that two physicians certify in those rare cases a child may respond to treatment with medical marijuana in an edible form or topical cream.
- My amendments to SB 423 address the bill's constitutional problems. SB 423 ignores privacy concerns. Article II, Section § 10 of our Montana Constitution guarantees our citizens the right to privacy. Those who register for cards have a constitutional right to privacy protected by Article II, Section § 10. Under SB 423, cardholders, i.e. patients' names and addresses must be provided to local law enforcement by the Department of Public Health and Human Services. The right to privacy is a fundamental right. The blanket disclosure requirement in the bill would never survive the strict scrutiny standard for invading a patient's right to privacy. The requirement also directly violates the Montana Government Health Care Information Act. (See, 50-16-601-611, MCA.) Our Montana Government Health Care Information Act was enacted with the express purpose of expanding the Health Insurance Portability and Accountability Act of 1996 (HIPAA) coverage to non-HIPAA covered entities. (See, 50-16-502(6) & (7) & 505, MCA.) Releasing a list of the identities of patients is forbidden under HIPAA and our law. Currently, law enforcement can verify that particular people who hold themselves out as cardholders actually are cardholders with the Department of Public Health and Human Services. This process has worked well and need not be tampered with in the new law. Handing over a list of cardholders to law enforcement is unfair to vulnerable patients who legitimately qualify for a card. I fear it would drive those patients to the illegal market for marijuana.
- Compounding the privacy issues, SB 423 also permits law enforcement unlimited access, without permission or warrant, to the private homes of cardholders who grow their own marijuana. Article II, Section § 11 of our Montana constitution protects citizens from unreasonable searches and seizures. Patients who grow their own plants were not the genesis of any of the problems that arose under the current law and should not now be subject to warrantless searches. If law enforcement officers believe a patient is diverting their marijuana or growing beyond the allowed limits they should properly investigate the matter; gain access through consent or through a search warrant. Law enforcement, working with the Department of Public Health and Human Services can ensure suspected abuse is investigated and when confirmed, appropriate enforcement action taken. My amendments permit inspections of providers and manufacturers by the Department of Public Health and Human Services and law enforcement during normal business hours. My amendments provide for a reasonable time limit for unannounced inspections, which may often occur in a provider's personal residence. My amendments also provide reasonable procedures for securing marijuana products and paraphernalia where a cardholder is admitted to a health care facility.
- My amendments move the reviewing authority for approving a new medical condition for eligibility for medical marijuana treatment from the legislature to the Department of Public Health and Human Services. The Department of Public Health and Human Services is the only agency in

the bill with all the responsibility for administering the law. It is in a good position to review records and seek advice from medical experts if a physician is seeking to have a new medical condition approved for a potential cardholder. These patients need not be subject to the long delay between sessions awaiting approval of their physician's recommendations.

- My amendments also provide for a more rational transition time for providers to register and comply with the new law. The new effective date for some of the provisions in the bill is October 1, 2011 and for other provisions July 1, 2011. The local government and law enforcement provisions are effective upon passage and approval.
- Providers who grow and manufacture marijuana products must register their location with the Department of Public Health and Human Services and local law enforcement, ensuring more effective compliance enforcement. My amendments provide rule making authority for the Department to enable cardholders to receive a list of providers in a particular area. Given that SB 423 prohibits advertizing and storefronts may be prohibited by local jurisdictions, it is essential patients are able to find a provider.
- I believe SB 423 makes access to medical marijuana far too difficult for patients, many of whom are suffering chronic and severe illness and do not have the physical or financial ability to grow their own marijuana to treat their debilitating condition. Patients must be able to obtain medical marijuana from legitimate sources with a reliable product. Therefore, I have increased the number of cardholders a provider or manufacturer may have from three to twenty-five. I believe this limit will prevent the large grow operations that boomed under the current law. My amendments do allow a provider to charge for their plant products and lift the no profit restriction from the bill. Another amendment allows a provider to be both a grower and manufacturer of marijuana infused product. There has been no testimony that this now common practice has been a problem.
- SB 423 codifies the restrictions on physicians and provides for review of physicians who certify more than fifteen patients a year. My amendment increases that number to 50 patients. Fifty is less than 5% of your average Montana physician's patient load and this limit will still certainly curtail the number of cardholders.
- Finally, I have put rulemaking authority in the Department of Public Health and Human Services to write rules around the transportation, possession of samples, testing and labeling of marijuana by laboratories in Montana. Laboratories have been receiving, testing and labeling marijuana under the current law and doing so protects the patients in titrating proper doses and assists the medical community with scientific information about the value of particular strains on specific debilitating conditions. It may also help us in the future with tracking marijuana and prosecuting illegal activity. My amendments permit laboratories to register with the department and provide legal protections to the laboratories that do testing and labeling.

I respectfully request that the legislature agree to these proposed amendments. It would be irresponsible to adjourn without a reform bill that addresses the weakness of I-148 and the concerns raised at public hearings while honoring the intent of the initiative and the Montanans who voted for it.

Sincerely,



BRIAN SCHWEITZER
Governor

Amendments to Senate Bill No. 423
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 28, 2011 (2:41pm)

1. Title, page 1, line 13.

Strike: "50-46-201, 50-46-202,"

2. Page 2, line 4.

Following: "delivery,"

Insert: "including delivery for laboratory testing,"

3. Page 2, line 24 through line 25.

Following: "BY"

Strike: "I" on line 24 through "(I)" on line 25

4. Page 2, line 25.

Following: "INCLUDING"

Insert: "relevant and necessary"

5. Page 2, line 27 through line 29.

Strike: "OR" on line 27 through "EXAMINATION;" on line 29

6. Page 3, line 7.

Strike: "LEGISLATURE"

Insert: "department by rule"

7. Page 4, line 4.

Strike: "REGISTERED CARDHOLDER,"

Following: "PROVIDER"

Strike: "I"

8. Page 4, line 25.

Following: "RELEVANT"

Insert: "and necessary"

9. Page 4, line 27.

Following: "REVIEWING"

Insert: "any"

Following: "RELEVANT"

Insert: "and necessary"

10. Page 6, line 8.

Following: "department"

Strike: "shall" through "renewal"

Insert: "must have complete application materials and may verify any documentation that is"

11. Page 7, line 3.

Strike: "registered cardholders"

Following: "and"

Strike: "└"

Following: "providers"

Strike: "└"

12. Page 7, line 5.

Strike: "cardholders"

Following: "or"

Strike: "└"

Following: "providers"

Strike: "└"

13. Page 7, line 8.

Strike: "15"

Insert: "50"

14. Page 7, line 19 and line 20.

Strike: ":" on line 19 through "(A)" on line 20

15. Page 7, line 21 through line 25.

Strike: "; AND" on line 21 through "CERTIFICATIONS" on line 25

16. Page 7, line 28.

Strike: "and (3)"

Insert: "through (4)"

17. Page 8, line 15.

Following: "any"

Insert: ", or names, dates of birth, and street addresses of both providers if a patient has both types of providers"

18. Page 9.

Following: line 10

Insert: "(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician."

Renumber: subsequent subsections

19. Page 10, line 30.

Strike: "THREE"

Insert: "25"

20. Page 11, line 3.

Strike: "TWO"
Insert: "24"

21. Page 11, line 5 through line 7.
Strike: subsection (4) in its entirety
Renumber: subsequent subsections

22. Page 11, line 10 through line 15.
Strike: ":" on line 10 through "(C)" on line 15
Following: "CARDHOLDER" on line 15
Strike: "; or"
Insert: "."

23. Page 11, line 16.
Strike: line 16 in its entirety

24. Page 11, line 17.
Strike: "(a)"

25. Page 11, line 19.
Strike: "(i)"
Insert: "(a)"
Renumber: subsequent subsections

26. Page 11, line 24 through line 25.
Strike: subsection (b) in its entirety

27. Page 12, line 3 through line 4.
Following: "PROVIDER" on line 3
Strike: ":" through "(A)" on line 4
Following: "PRODUCTS" on line 4
Strike: "; AND" on line 4
Insert: "unless the marijuana-infused products provider is also a registered provider."

28. Page 12, line 5.
Strike: line 5 in its entirety

29. Page 12, line 28 through page 13, line 20.
Strike: subsection (D) through subsection (M) in their entirety
Insert: "(d) confirm that the physician:
 (i) has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other treating physicians and that may have included the patient's reaction and response to conventional medical therapies;
 (ii) has reviewed all prescription and nonprescription medications and supplements used by the patient and has

considered the potential drug interaction with marijuana;
(iii) has explained the potential risks and benefits of the use of marijuana to the patient; and

(iv) plans to continue to assess the patient and the patient's use of marijuana during the course of the physician-patient relationship;

(e) state that in the physician's professional opinion the potential benefits of the use of marijuana would likely outweigh the health risks for the patient; and

(f) attest that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct."

Renumber: subsequent subsection

30. Page 13, line 30.

Following: "(1)"

Insert: "(a)"

31. Page 14, line 1.

Following: "hospices"

Insert: "and residential care facilities"

32. Page 14, line 2.

Strike: "in the order listed"

33. Page 14, line 4.

Strike: "(a)"

Insert: "(i)"

34. Page 14, line 5.

Following: ";

Insert: "or"

35. Page 14, line 6.

Strike: "(b)"

Insert: "(ii)"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney"

36. Page 14, line 7.

Strike: "; or"

Insert: "."

37. Page 14, line 8.

Strike: "(c)"

Insert: "(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall"

38. Page 14, line 9.

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney, if any,"

39. Page 14, line 11 and line 12.

Following: "respond by"

Strike: "removing and destroying"

Insert: "storing"

Following: "marijuana" on line 12

Insert: "and any paraphernalia for up to 45 days for the registered cardholder or by transferring the marijuana to the cardholder's provider or marijuana-infused products provider to be held for the cardholder. If the cardholder is released from the health care facility within 45 days, the marijuana and any paraphernalia must be returned to the cardholder. After 45 days, the marijuana and any paraphernalia must be destroyed"

40. Page 14, line 26.

Strike: "or"

41. Page 14, line 27.

Following: "marijuana"

Insert: "; or

(c) a testing laboratory or its owners, officers, or employees are transporting, receiving, or in possession of marijuana samples for testing and labeling under rules adopted by the department"

42. Page 19, line 4.

Strike: "FREQUENT,"

43. Page 19, line 7.

Strike: "AT ANY TIME"

Insert: "during normal business hours of 8 a.m. to 5 p.m."

44. Page 19, line 13.

Following: "INVESTIGATION"

Insert: "during normal business hours of 8 a.m. to 5 p.m."

45. Page 19, line 24.

Strike: "or"

46. Page 19, line 27.

Following: "PRODUCTS"

Insert: "; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing the person's own marijuana"

47. Page 21.

Following: line 30

Insert: "(d) a process for maintaining a list of providers and marijuana-infused products providers who have fewer than 25 registered cardholders and who want their contact information provided to cardholders in their area;

(e) procedures for adding to the list of debilitating medical conditions for which use of marijuana is allowed;

(f) requirements for testing laboratories to register with the department;

(g) the manner in which testing laboratories may transport, receive, test, and label marijuana samples for providers and marijuana-infused product providers;

(h) inspections procedures for registered cardholders who have chosen to cultivate and manufacture marijuana for their own use; and"

Renumber: subsequent subsection

48. Page 28, line 17 through page 30, line 6.

Strike: section 30 through section 31 in their entirety

Renumber: subsequent sections

49. Page 32, line 28.

Strike: "July 1, 2011"

Insert: "October 1, 2011"

50. Page 32, line 30.

Strike: "Before July 1, 2011,"

Insert: "By October 1, 2011,"

51. Page 33, line 29.

Strike: "July 1, 2011"

Insert: "October 1, 2011"

52. Page 33, line 30 through Page 34, line 1.

Strike: "30" on page 33, line 30 through "38" on page 34, line 1
Insert: "31, 33, and 36"

- END -

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 423

Call to Order: Chair Jeff Essmann, on April 28, 2011 at 6:50 P.M., in Room 335 Capitol

ROLL CALL

Members Present:

Sen. Jeff Essmann, Chair (R)
Rep. Cary Smith, Vice Chair (R)
Rep. Tom Berry (R)
Sen. Cliff Larsen (D)
Rep. Diane Sands (D)
Sen. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present:

Debra Polhemus, Committee Secretary
Sue O'Connell, Legislative Services Division

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action: Further Amend SB 423
Review and consideration of Governor's Amendments

EXECUTIVE ACTION ON SB 423

00:00:39 Chairman Essmann

EXHIBIT(frs94sb0423a01)

EXHIBIT(frs94sb0423a02)

00:01:13 Rep. Sands

EXHIBIT(frs94sb0423a03)

00:01:44 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED.**

Discussion:

00:01:55 Rep. Sands

00:04:04 Sen. Vincent

00:05:08 **Substitute Motion/Vote:** Rep. Sands made a substitute motion that **THE NO. 2 SECTION OF THE AMENDMENT BE SEGREGATED.** Without objection, the committee agreed.

Discussion:

00:05:15 Sen. Sands

00:05:43 **Motion/Vote:** Sen. Larsen moved that **SB 423 BE AMENDED WITH SECTION 1, 3, AND 4.** Motion carried 6-0 by voice vote of committee members from both chambers.

00:06:37 **Motion:** Rep. Sands moved that **SB 423 BE AMENDED WITH SECTION 2.**

Discussion:

00:06:56 Rep. Berry

00:07:35 Sen. Larsen

00:08:40 Rep. Sands

00:09:04 Sen. Larsen

00:10:11 Chairman Essmann

00:12:59 Rep. Sands

00:13:37 Chairman Essmann

00:14:26 **Vote:** Motion failed 2-4 by voice vote with Sen. Larsen and Rep. Sands voting aye.

00:15:08 **Motion:** Sen. Vincent moved that **SB 423 BE AMENDED.** (See Exhibit 2)

Discussion:

00:15:31 Sue O'Connell, Legislative Services Division (LSD)

00:22:06 Chairman Essmann

EXHIBIT(frs94sb0423a04)

Discussion (con't):

00:23:20 Rep. Sands
00:23:50 Chairman Essmann
00:26:20 Rep. Smith
00:26:33 Chairman Essmann
00:27:49 Rep. Sands
00:27:56 Chairman Essmann
00:30:22 Rep. Smith
00:31:22 Sen. Larsen
00:33:44 Rep. Berry
00:34:27 Rep. Sands

00:37:01 **Vote:** Motion carried 5-1 by voice vote with Sen. Larsen voting no.

00:37:36 **Motion/Vote:** Sen. Vincent moved that **SB 423 DO PASS AS AMENDED.**
Motion carried 5-1 by voice vote with Sen. Larsen voting no.

00:37:50 **Motion/Vote:** Sen. Vincent moved that **THE FREE CONFERENCE
COMMITTEE REPORT ON SB 423 BE ADOPTED.** Motion carried 5-1 by voice
vote with Sen. Larsen voting no.

ADJOURNMENT

Adjournment: 7:25 p.m.

Debra Polhemus, Secretary

dlp

Additional Documents:

EXHIBIT(frs94sb0423aad.pdf)

1 would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and
2 prosecuted pursuant to the provisions of Title 45.

3
4 **NEW SECTION. Section 16. Fraudulent representation -- penalties.** (1) In addition to any other
5 penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is
6 a registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER is guilty of a ~~felony~~
7 MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for A TERM not ~~less than~~ TO EXCEED
8 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

9 (2) A physician who purposely and knowingly misrepresents any information required under [section 6
10 7] is guilty of a ~~felony~~ MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for not ~~less than~~
11 A TERM NOT TO EXCEED 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

12 **(3) A PERSON CONVICTED UNDER THIS SECTION MAY NOT BE REGISTERED AS A PROVIDER OR**
13 **MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER [SECTION 5].**

14
15 **NEW SECTION. Section 17. Confidentiality of registry information -- penalty.** (1) ~~A~~ EXCEPT AS
16 PROVIDED IN 37-3-203, a person, including an employee or official of the department of public health and human
17 services, commits the offense of disclosure of confidential information related to registry information if the person
18 knowingly or purposely discloses confidential information in violation of [sections 1 through ~~47~~ 23].

19 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
20 in the county jail for a term not to exceed 6 months, or both.

21
22 **NEW SECTION. Section 18. Law enforcement authority.** Nothing in this chapter may be construed
23 to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a ~~debilitating~~
24 ~~medical condition or the person's provider~~ REGISTRY IDENTIFICATION CARD.

25
26 **NEW SECTION. Section 19. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
27 property seized by a law enforcement official from a person claiming the protections of [sections 1 through ~~47~~ 23]
28 in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must
29 be returned to the person immediately upon a determination that the person is in compliance with the provisions
30 of [sections 1 through ~~47~~ 23].

MARIJUANA-INFUSED PRODUCTS PROVIDERS FROM OPERATING AS STOREFRONT BUSINESSES.

NEW SECTION. SECTION 14. INSPECTION PROCEDURES. (1) THE DEPARTMENT AND STATE OR LOCAL LAW

ENFORCEMENT AGENCIES MAY CONDUCT ~~FREQUENT~~, UNANNOUNCED INSPECTIONS OF REGISTERED PREMISES.

(2) (A) EACH PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL KEEP A COMPLETE SET OF RECORDS NECESSARY TO SHOW ALL TRANSACTIONS WITH REGISTERED CARDHOLDERS. THE RECORDS MUST BE OPEN FOR INSPECTION BY THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES AT ANY TIME. ^{during business hours}

(B) THE DEPARTMENT MAY REQUIRE A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER TO FURNISH INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF [SECTIONS 1 THROUGH 23].

(3) (A) A REGISTERED PREMISES, INCLUDING ANY PLACES OF STORAGE, WHERE MARIJUANA IS CULTIVATED, MANUFACTURED, OR STORED IS SUBJECT TO ENTRY BY THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT AGENCIES FOR THE PURPOSE OF INSPECTION OR INVESTIGATION. ^{during business hours}

(B) IF ANY PART OF THE REGISTERED PREMISES CONSISTS OF A LOCKED AREA, THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAKE THE AREA AVAILABLE FOR INSPECTION WITHOUT DELAY UPON REQUEST OF THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

(4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAINTAIN RECORDS SHOWING THE NAMES AND REGISTRY IDENTIFICATION NUMBERS OF REGISTERED CARDHOLDERS TO WHOM MATURE PLANTS, SEEDLINGS, USABLE MARIJUANA, OR MARIJUANA-INFUSED PRODUCTS WERE TRANSFERRED AND THE QUANTITIES TRANSFERRED TO EACH CARDHOLDER.

NEW SECTION. Section 15. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; ~~or~~

(b) allows another person to be in possession of the ~~cardholder's~~ PERSON'S:

(i) registry identification card; or

(ii) MATURE marijuana plants ~~or~~, SEEDLINGS, usable marijuana, OR MARIJUANA-INFUSED PRODUCTS. ^{or (c) fails to cooperate...}

(2) A registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates [sections 1 through 47 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 47 23] or unless the violation

MARIJUANA-INFUSED PRODUCTS PROVIDERS -- SANCTIONS. (1) (A) A PHYSICIAN WHO PROVIDES WRITTEN CERTIFICATIONS MAY NOT:

(I) ACCEPT OR SOLICIT ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, FROM A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(II) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A PERSON WHO USES OR AGREES TO USE A PARTICULAR PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER; OR

(III) EXAMINE A PATIENT FOR THE PURPOSES OF DIAGNOSING A DEBILITATING MEDICAL CONDITION AT A LOCATION WHERE MEDICAL MARIJUANA IS CULTIVATED OR MANUFACTURED OR WHERE MARIJUANA-INFUSED PRODUCTS ARE MADE.

(B) SUBSECTION (1)(A) DOES NOT PREVENT A PHYSICIAN FROM ACCEPTING A FEE FOR PROVIDING MEDICAL CARE TO A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PHYSICIAN CHARGES THE PERSON THE SAME FEE THAT THE PHYSICIAN CHARGES OTHER PATIENTS FOR PROVIDING A SIMILAR LEVEL OF MEDICAL CARE.

(2) IF THE DEPARTMENT HAS CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED THIS SECTION, HAS VIOLATED A PROVISION OF RULES ADOPTED PURSUANT TO THIS CHAPTER, OR HAS NOT MET THE STANDARD OF CARE REQUIRED UNDER THIS CHAPTER, THE DEPARTMENT MAY REFER THE MATTER TO THE BOARD OF MEDICAL EXAMINERS PROVIDED FOR IN 2-15-1731 FOR REVIEW PURSUANT TO 37-1-308.

(3) A VIOLATION OF THIS SECTION CONSTITUTES UNPROFESSIONAL CONDUCT UNDER 37-1-316. IF THE BOARD OF MEDICAL EXAMINERS FINDS THAT A PHYSICIAN HAS VIOLATED THIS SECTION, THE BOARD SHALL RESTRICT THE PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA. THE BOARD OF MEDICAL EXAMINERS SHALL NOTIFY THE DEPARTMENT OF THE SANCTION.

(4) IF THE BOARD OF MEDICAL EXAMINERS BELIEVES A PHYSICIAN'S PRACTICES MAY HARM THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE BOARD MAY SUMMARILY RESTRICT A PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA.

NEW SECTION. Section 13. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE OR RESOLUTION PROHIBITING PROVIDERS AND

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 47 ~~23~~] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 47 ~~23~~] may be construed to allow a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER to use marijuana or to prevent criminal prosecution of a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a ~~registered cardholder or provider~~ PERSON WITH A VALID REGISTRY IDENTIFICATION CARD is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of ~~3-5~~ 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder ~~or~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

NEW SECTION. SECTION 12. PROHIBITIONS ON PHYSICIAN AFFILIATION WITH PROVIDERS AND

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) ~~in~~ WHEN ORDERED BY ANY COURT OF COMPETENT JURISDICTION INTO a correctional facility, INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203 OR PROGRAM;

(VII) IF A COURT HAS IMPOSED RESTRICTIONS ON THE CARDHOLDER'S USE PURSUANT TO 46-18-202;

~~(vii)~~ (VIII) at a public park, public beach, public recreation center, or youth center;

~~(viii)~~ (IX) in or on the property of any church, synagogue, or other place of worship;

~~(ix)~~ (X) in plain view of or in a place open to the general public; ~~or~~ OR

~~(x)~~ (XI) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children; ~~OR~~

~~—— (XI) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM.~~

(2) A registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice OR RESIDENTIAL CARE FACILITY licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 47 ~~23~~] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a ~~person with a debilitating medical condition~~ REGISTERED CARDHOLDER;

1 condition.

2 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
3 professional licensing board or the department of labor and industry if:

4 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

5 (b) a physician violates the standard of care or other requirements of [sections 1 through 47 23].

6 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
7 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
8 of the use of marijuana as permitted under [sections 1 through 47 23].

9 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
10 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
11 a registered cardholder.

12 (6) ~~Possession~~ EXCEPT AS PROVIDED IN [SECTION 14], POSSESSION of or application for a registry
13 identification card does not alone constitute probable cause to search the individual or the property of the
14 individual possessing or applying for the registry identification card or otherwise subject the individual or property
15 of the individual possessing or applying for the card to inspection by any governmental agency, including a law
16 enforcement agency.

17 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
18 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal
19 charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an
20 arrest or the filing of a criminal charge.

21 (8) (A) A REGISTERED CARDHOLDER, A PROVIDER, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER IS PRESUMED
22 TO BE ENGAGED IN THE USE OF MARIJUANA AS ALLOWED BY [SECTIONS 1 THROUGH 23] IF THE PERSON:

23 (I) IS IN POSSESSION OF A VALID REGISTRY IDENTIFICATION CARD; AND

24 (II) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE AMOUNT PERMITTED UNDER
25 [SECTIONS 1 THROUGH 23].

26 (B) THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT THE POSSESSION OF MARIJUANA WAS NOT FOR THE
27 PURPOSE OF ALLEVIATING THE SYMPTOMS OR EFFECTS OF A REGISTERED CARDHOLDER'S DEBILITATING MEDICAL
28 CONDITION.

29
30 NEW SECTION. Section 11. Limitations of the act. (1) [Sections 1 through 47 23] do not permit:

and residential care facilities

1 Except for hospices that allow the use of marijuana as provided in [section 40 11], a health care facility as defined
 2 in 50-5-101 shall take the following measures ~~in the order listed~~ when a patient who is a registered cardholder
 3 has marijuana in the patient's possession upon admission to the health care facility:

4 (a) ⁽ⁱ⁾ require the patient to remove the marijuana from the premises before the patient is admitted if the
 5 patient is able to do so; or

6 (b) ⁽ⁱⁱ⁾ make a reasonable effort to contact the patient's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, ^{court-appointed guardian or person with power of attorney}

7 if any, or

8 (c) If a patient is unable ... the health care facility shall
 9 ~~contact the local law enforcement agency having jurisdiction in the area where the facility is located.~~

9 (2) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER ^(court-appointed guardian ...) contacted by a health care facility shall remove
 10 the marijuana and deliver it to the patient's residence.

11 (3) A law enforcement agency contacted by a health care facility shall respond by removing and
 12 destroying the marijuana.

13 (4) A health care facility may not be charged for costs related to removal of the marijuana from the
 14 facility's premises.

15
 16 NEW SECTION. Section 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder
 17 may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

18 (b) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may possess ~~the amounts allowed under~~
 19 subsection (1)(a) 4 MATURE PLANTS, 12 SEEDLINGS, AND 1 OUNCE OF USABLE MARIJUANA for each registered
 20 cardholder who has named the person as the registered cardholder's provider.

21 (2) Except as provided in [section 40 11] and subject to the provisions of subsection (7), an individual
 22 who possesses a registry identification card issued pursuant to [sections 1 through 47 23] may not be arrested,
 23 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty
 24 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

25 (a) the ~~registered cardholder or provider~~ INDIVIDUAL cultivates, manufactures, possesses, or transports
 26 marijuana in the amounts allowed under this section; or

27 (b) the registered cardholder acquires or uses marijuana.

28 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
 29 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
 30 department of labor and industry, solely for providing written certification for a patient with a debilitating medical

1 MAINTAINED BY OTHER PHYSICIANS AND THAT MAY HAVE INCLUDED THE PERSON'S REACTION AND RESPONSE TO
 2 CONVENTIONAL MEDICAL THERAPIES;

3 ~~(d)~~(E) describe the medications, procedures, and other medical options used to treat the condition;

4 ~~(e)~~(F) state that the medications, procedures, or other medical options have not been effective;

5 (G) CONFIRM THAT THE PHYSICIAN HAS REVIEWED ALL PRESCRIPTION AND NONPRESCRIPTION MEDICATIONS AND
 6 SUPPLEMENTS USED BY THE PERSON AND HAS CONSIDERED THE POTENTIAL DRUG INTERACTION WITH MARIJUANA;

7 ~~(f)~~(H) state that the physician has a reasonable degree of certainty that the person's debilitating medical
 8 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit
 9 from the use of marijuana;

10 (I) CONFIRM THAT THE PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE USE OF MARIJUANA
 11 TO THE PERSON;

12 ~~(g)~~(J) list restrictions on the person's activities due to the use of marijuana;

13 ~~(h)~~(K) specify the time period for which the use of marijuana would be appropriate, up to a maximum of
 14 1 year; and

15 ~~(i)~~(L) state that the physician will:

16 (i) continue to serve as the person's treating physician OR REFERRAL PHYSICIAN; and

17 (ii) ~~supervise~~ MONITOR the person's RESPONSE TO THE use of marijuana and evaluate the efficacy of the
 18 treatment; AND

19 (M) CONTAIN AN ATTESTATION THAT THE INFORMATION PROVIDED IN THE WRITTEN CERTIFICATION AND
 20 ACCOMPANYING STATEMENTS IS TRUE AND CORRECT.

21 *(3) A physician who is the second physician for a minor . . .*
 22 *LA (2)* If the written certification states that marijuana should be used for less than 1 year, the department
 23 shall issue a registry identification card that is valid for the period specified in the written certification.

24 NEW SECTION. Section 8. Registry card to be carried and exhibited on demand -- photo
 25 identification required. A registered cardholder or, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER shall
 26 keep the ~~cardholder's or provider's~~ PERSON'S registry identification card in the person's immediate possession
 27 at all times. The person shall display the registry identification card and a valid photo identification upon demand
 28 of a law enforcement officer, justice of the peace, or city or municipal judge.

29
 30 NEW SECTION. Section 9. Health care facility procedures for patients with marijuana for use. (1) (a)

1 (B) USE EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF
2 MARIJUANA-INFUSED PRODUCTS.

3 (2) A MARIJUANA-INFUSED PRODUCTS PROVIDER:

4 (A) MAY CULTIVATE MARIJUANA ONLY FOR THE PURPOSE OF MAKING MARIJUANA-INFUSED PRODUCTS; AND

5 (B) MAY NOT PROVIDE A CARDHOLDER WITH MARIJUANA IN A FORM THAT MAY BE USED FOR SMOKING unless the
6 (3) ALL REGISTERED PREMISES ON WHICH MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED MUST MEET ANY infused-
A products provide
... --

7 APPLICABLE STANDARDS SET BY A LOCAL BOARD OF HEALTH FOR A FOOD SERVICE ESTABLISHMENT AS DEFINED IN
8 50-50-102.

9 (4) MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF TITLE
10 50, CHAPTER 31.

11
12 NEW SECTION. Section 7. ~~Physician-statement~~ WRITTEN CERTIFICATION -- ACCOMPANYING
13 STATEMENTS. (1) The written certification provided by a physician must BE MADE ON A FORM PRESCRIBED BY THE
14 DEPARTMENT AND SIGNED AND DATED BY THE PHYSICIAN. THE WRITTEN CERTIFICATION MUST:

15 (A) INCLUDE THE PHYSICIAN'S NAME, LICENSE NUMBER, AND OFFICE ADDRESS AND TELEPHONE NUMBER ON FILE
16 WITH THE BOARD OF MEDICAL EXAMINERS AND THE PHYSICIAN'S BUSINESS E-MAIL ADDRESS, IF ANY; AND

17 (B) THE NAME, DATE OF BIRTH, AND DEBILITATING MEDICAL CONDITION OF THE PERSON FOR WHOM THE PHYSICIAN
18 IS PROVIDING WRITTEN CERTIFICATION.

19 (2) A TREATING PHYSICIAN OR REFERRAL PHYSICIAN WHO IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT
20 SHALL PROVIDE A STATEMENT INITIALED BY THE PHYSICIAN THAT MUST:

21 (a) confirm that the physician is;

22 (i) the person's treating physician and that the person has been under the physician's ONGOING medical
23 care and supervision AS PART OF A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON; OR

24 (ii) THE PERSON'S REFERRAL PHYSICIAN;

25 (b) confirm that the person suffers from a debilitating medical condition;

26 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which
27 it is debilitating;

28 (D) CONFIRM THAT THE PHYSICIAN HAS ASSUMED PRIMARY RESPONSIBILITY FOR PROVIDING MANAGEMENT AND
29 ROUTINE CARE OF THE PERSON'S DEBILITATING MEDICAL CONDITION AFTER OBTAINING A COMPREHENSIVE MEDICAL
30 HISTORY AND CONDUCTING A PHYSICAL EXAMINATION THAT INCLUDED A PERSONAL REVIEW OF ANY MEDICAL RECORDS

CARDHOLDERS.

(ii) A person who is registered as both ... may assist no more than three registered cardholders.
(B) IF THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IS A REGISTERED CARDHOLDER, THE

PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ASSIST A MAXIMUM OF TWO REGISTERED CARDHOLDERS
OTHER THAN THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

(4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ACCEPT REIMBURSEMENT FROM A
CARDHOLDER ONLY FOR THE PROVIDER'S APPLICATION OR RENEWAL FEE FOR A REGISTRY IDENTIFICATION CARD ISSUED
UNDER THIS SECTION.

(4)(5) Marijuana for use pursuant to [sections 1 through 47 23] must be cultivated and manufactured in
Montana.

(5)(6) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not:

(a) accept ~~compensation~~ ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, for any services or
products provided to a registered cardholder;

(B) BUY OR SELL MATURE MARIJUANA PLANTS, SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR
MARIJUANA-INFUSED PRODUCTS; OR,

(b)(C) use marijuana UNLESS THE PERSON IS ALSO A REGISTERED CARDHOLDER; ~~or~~

~~(c)(D) be a registered cardholder AS BOTH A PROVIDER AND A MARIJUANA-INFUSED PRODUCTS PROVIDER.~~

(6)(7) (a) A provider PERSON REGISTERED UNDER THIS SECTION may cultivate and manufacture marijuana
for use by a registered cardholder only at ONE OF THE FOLLOWING LOCATIONS:

(i) a property that is owned by the provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(ii) with written permission of the landlord, a property that is rented or leased by the provider OR
MARIJUANA-INFUSED PRODUCTS PROVIDER; OR

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section
4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or
rented or leased to another provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER or another registered cardholder.

NEW SECTION. SECTION 6. MARIJUANA-INFUSED PRODUCTS PROVIDER -- REQUIREMENTS -- ALLOWABLE
ACTIVITIES. (1) AN INDIVIDUAL REGISTERED AS A MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL:

(A) PREPARE MARIJUANA-INFUSED PRODUCTS AT A PREMISES REGISTERED WITH THE DEPARTMENT THAT IS USED
FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS; AND

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder THAT INDICATES WHETHER THE PERSON WILL ACT AS THE CARDHOLDER'S PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(E) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES OR MANUFACTURES FOR A REGISTERED CARDHOLDER;

~~(e)(F)~~ a statement ~~indicating whether~~ ACKNOWLEDGING THAT the person will cultivate and manufacture marijuana for the registered cardholder at ~~a property owned, rented, or leased by the cardholder or by the person; and~~ ONLY ONE LOCATION AS PROVIDED IN SUBSECTION (7). THE LOCATION MUST BE IDENTIFIED BY STREET ADDRESS.

~~(f)(G)~~ a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person ~~as a provider~~ UNDER THIS SECTION if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court, ~~A DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM;~~

(C) HAS BEEN CONVICTED OF A VIOLATION UNDER [SECTION 16];

~~(e)(D)~~ has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; OR

(E) IS A REGISTERED CARDHOLDER WHO HAS DESIGNATED A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IN THE PERSON'S APPLICATION FOR A CARD ISSUED UNDER [SECTION 4].

(28) ^(c) (A) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may assist ~~only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage~~ A MAXIMUM OF THREE REGISTERED

1 ~~(iii)(C)~~ agrees to control the acquisition of marijuana and the dosage and frequency of the use of
2 marijuana by the minor; and

3 (D) AGREES THAT THE MINOR WILL USE ONLY MARIJUANA-INFUSED PRODUCTS AND WILL NOT SMOKE MARIJUANA;

4 ~~(iv)(C) undergoes a name-based~~ SUBMITS FINGERPRINTS TO FACILITATE A FINGERPRINT AND background
5 check BY THE DEPARTMENT OF JUSTICE AND FEDERAL BUREAU OF INVESTIGATION. The parent or legal guardian shall
6 pay the costs of the background check AND MAY NOT OBTAIN A REGISTRY IDENTIFICATION CARD AS A
7 MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PARENT OR LEGAL GUARDIAN DOES NOT MEET THE REQUIREMENTS OF
8 [SECTION 5].

9 (D) PLEDGES, ON A FORM PRESCRIBED BY THE DEPARTMENT, NOT TO DIVERT TO ANY PERSON ANY MARIJUANA
10 CULTIVATED OR MANUFACTURED FOR THE MINOR'S USE IN A MARIJUANA-INFUSED PRODUCT.

→ 11 ~~(3)~~ *An application for a minor requires two physician certifications.*
12 ~~(3)~~ A person may not be a registered cardholder if the person is in the custody of or under the
13 supervision of the department of corrections ~~or, OR a youth court, A DISTRICT COURT, OR A COURT OF LIMITED~~
14 ~~JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL~~
15 ~~SUPERVISION OR ENFORCEMENT PROGRAM.~~

16 ~~(5)(4)~~ A registered cardholder who elects to obtain marijuana from a provider OR MARIJUANA-INFUSED
17 PRODUCTS PROVIDER may not cultivate or manufacture marijuana for the cardholder's use UNLESS THE REGISTERED
18 CARDHOLDER IS THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

19 ~~(6)(5)~~ A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9 10] only:

20 (a) at a property that is owned by the cardholder; or

21 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

22 ~~(7)(6)~~ No portion of the property used for cultivation and manufacture of marijuana for use by the registered
23 cardholder may be shared with or rented or leased to a provider ~~or to, A MARIJUANA-INFUSED PRODUCTS PROVIDER,~~
24 OR a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to
25 each other by the second degree of kinship by blood or marriage.

26 NEW SECTION. Section 5. Providers PROVIDER TYPES -- requirements -- limitations -- ACTIVITIES.

27 (1) The department shall issue a registry identification card to OR RENEW A CARD FOR the person who is named
28 as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER in a registered cardholder's approved application if the
29 person submits to the department:

30 (a) the person's name, date of birth, and street address on a form prescribed by the department;

1 (a) an application on a form prescribed by the department;

2 (b) an application fee or a renewal fee;

3 (c) the person's name, street address, and date of birth;

4 (d) proof of Montana residency;

5 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
6 will be obtaining marijuana from a provider OR A MARIJUANA-INFUSED PRODUCTS PROVIDER;

7 (F) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY
8 OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES, MANUFACTURES, OR OBTAINS FOR THE PERSON'S
9 DEBILITATING MEDICAL CONDITION;

10 ~~(f)~~(G) the name of the person's treating physician OR REFERRAL PHYSICIAN and the street address and
11 telephone number of the physician's office;

12 ~~(g)~~(H) the street address where the person is cultivating or manufacturing marijuana if the person is
13 cultivating or manufacturing marijuana for the person's own use;

14 ~~(h)~~(I) the name, date of birth, and street address of the individual the person has selected as a provider
15 OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any; and

16 ~~(i)~~(J) ~~a statement~~ THE WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS from the person's treating
17 physician OR REFERRAL PHYSICIAN as required pursuant to [section 6 7].

18 (2) The department shall issue a registry identification card to a minor if the materials required under
19 subsection ~~(2)~~ (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
20 care decisions;

21 (A) PROVIDES PROOF OF LEGAL GUARDIANSHIP AND RESPONSIBILITY FOR HEALTH CARE DECISIONS IF THE PERSON
22 IS SUBMITTING AN APPLICATION AS THE MINOR'S LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS;
23 AND

24 (B) signs and submits a written statement that:

25 ~~(a)~~(I) the minor's TREATING physician OR REFERRAL PHYSICIAN has explained to the minor and to the
26 minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and
27 benefits of the use of marijuana; and

28 ~~(b)~~(II) the minor's custodial parent or legal guardian with responsibility for health care decisions:

29 ~~(i)~~(A) consents to the use of marijuana by the minor;

30 ~~(ii)~~(B) agrees to serve as the minor's MARIJUANA-INFUSED PRODUCTS provider;

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

~~(8)(9)~~ The department shall provide the names of ~~registered cardholders and providers~~ ^{AND} MARIJUANA-INFUSED PRODUCTS PROVIDERS to the local law enforcement agency having jurisdiction in the area in which the ~~cardholders or providers~~ ^{OR} MARIJUANA-INFUSED PRODUCTS PROVIDERS ~~live~~ ^{ARE LOCATED}. The law enforcement agency and its employees are subject to the confidentiality requirements of [section ~~14~~ 17].

~~(9)(10)~~ (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for ~~15~~ ²⁵ or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

~~(10)(11)~~ The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders ~~or~~ physicians, PROVIDERS, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE ON:

(A) THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA, PURSUANT TO 37-3-203; AND

(B) THE NUMBER OF PHYSICIANS WHOSE NAMES WERE PROVIDED TO THE BOARD BY THE DEPARTMENT AS REQUIRED UNDER SUBSECTION (10). THE REPORT MUST INCLUDE INFORMATION ON WHETHER A PHYSICIAN WHOSE PRACTICES WERE REVIEWED BY THE BOARD PURSUANT TO SUBSECTION (10) MET THE STANDARD OF CARE WHEN PROVIDING WRITTEN CERTIFICATIONS.

NEW SECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors

-- limitations. (1) Except as provided in subsections (2) ~~and (3)~~ ^{through (4)}, the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition ~~or for~~ a provider, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall ~~verify~~ ^{review} the information contained in an application or renewal submitted pursuant to [sections 1 through ~~47~~ 23] and shall approve or deny an application or renewal within ~~45~~ 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within ~~45~~ 5 days of approving an application or renewal.

(5) REJECTION OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DEPARTMENT ACTION, SUBJECT TO JUDICIAL REVIEW.

~~(5)(6)~~ (A) Registry identification cards expire 1 year after the date of issuance unless:

(I) A PHYSICIAN HAS PROVIDED A WRITTEN CERTIFICATION STATING THAT A CARD IS VALID FOR A SHORTER PERIOD OF TIME; OR

(II) a registered cardholder changes providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(B) A provider's OR MARIJUANA-INFUSED PRODUCTS PROVIDER'S registry identification card expires at the time the department issues a card to a new provider OR NEW MARIJUANA-INFUSED PRODUCTS PROVIDERS named by a registered cardholder.

~~(6)(7)~~ (7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, ~~or~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~(7)(8)~~ (8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection ~~(8)~~ (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

1 TREATMENT:

2 (F) MONITORING THE RESPONSE TO TREATMENT AND POSSIBLE ADVERSE EFFECTS; AND

3 (G) CREATING AND MAINTAINING PATIENT RECORDS THAT REMAIN WITH THE PHYSICIAN.

4 (19) "TREATING PHYSICIAN" MEANS A PERSON WHO:

5 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

6 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

7 (C) HAS A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON APPLYING TO BE A REGISTERED

8 CARDHOLDER.

9 ~~(14)~~(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any
10 mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person
11 with a debilitating medical condition.

12 (b) The term does not include the seeds, stalks, and roots of the plant.

13 ~~(15)~~(21) "Written certification" means a statement signed by a treating physician OR REFERRAL PHYSICIAN
14 that meets the requirements of [section 6 7] and is provided in a manner that meets the standard of care.

15

16 NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality --
17 reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification
18 cards to Montana residents who:

19 (i) have debilitating medical conditions and who submit applications meeting the requirements of
20 [sections 1 through ~~47~~ 23]; and

21 (ii) are named as providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS by persons who obtain registry
22 identification cards for their debilitating medical conditions.

23 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
24 and transport marijuana as allowed by [sections 1 through ~~47~~ 23].

25 (2) The department shall conduct criminal history background checks as required by [sections 4 and 5]
26 before issuing a registry identification card for a person named as a provider OR MARIJUANA-INFUSED PRODUCTS

27 PROVIDER.

28 (3) Registry identification cards issued pursuant to [sections 1 through ~~47~~ 23] must:

29 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
30 which the card is valid;

1 EXAMINATION AND MEDICAL ASSESSMENT.

2 ~~(9)(12)~~ "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
3 condition who has received and maintains a valid registry identification card.

4 (13) "REGISTERED PREMISES" MEANS THE LOCATION AT WHICH A REGISTERED CARDHOLDER, PROVIDER, OR
5 MARIJUANA-INFUSED PRODUCTS PROVIDER HAS INDICATED THE PERSON WILL CULTIVATE OR MANUFACTURE MARIJUANA
6 FOR A REGISTERED CARDHOLDER.

7 ~~(10)(14)~~ "Registry identification card" means a document issued by the department pursuant to [section
8 3] that identifies a person as a registered cardholder or, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

9 ~~(11)(15)~~ (a) "Resident" means an individual who meets the requirements of 1-1-215.

10 (b) An individual is not considered a resident for the purposes of [sections 1 through ~~47~~ 23] if the
11 individual:

12 (i) claims residence in another state or country for any purpose; or

13 (ii) is an absentee property owner paying property tax on property in Montana.

14 (16) "SECOND DEGREE OF KINSHIP BY BLOOD OR MARRIAGE" MEANS A MOTHER, FATHER, BROTHER, SISTER, SON,
15 DAUGHTER, SPOUSE, GRANDPARENT, GRANDCHILD, MOTHER-IN-LAW, FATHER-IN-LAW, BROTHER-IN-LAW, SISTER-IN-LAW,
16 SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT-IN-LAW, GRANDCHILD-IN-LAW, STEPFATHER, STEPMOTHER,
17 STEBROTHER, STEPSISTER, STEPSON, STEPDAUGHTER, STEPGRANDPARENT, OR STEPGRANDCHILD.

18 ~~(12)(17)~~ "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
19 12 inches in diameter.

20 ~~(13)(18)~~ "Standard of care" means ~~the standard established by rule by the board of medical examiners,~~
21 AT A MINIMUM, THE FOLLOWING ACTIVITIES WHEN UNDERTAKEN BY A PATIENT'S TREATING PHYSICIAN OR REFERRAL
22 PHYSICIAN IF THE TREATING PHYSICIAN OR REFERRAL PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT
23 WITH A DEBILITATING MEDICAL CONDITION:

24 (A) OBTAINING THE PATIENT'S MEDICAL HISTORY;

25 (B) PERFORMING A RELEVANT PHYSICAL EXAMINATION;

26 (C) REVIEWING PRIOR TREATMENT AND TREATMENT RESPONSE FOR THE DEBILITATING MEDICAL CONDITION;

27 (D) OBTAINING AND REVIEWING RELEVANT DIAGNOSTIC TEST RESULTS RELATED TO THE DEBILITATING MEDICAL
28 CONDITION;

29 (E) DISCUSSING WITH THE PATIENT AND ENSURING THAT THE PATIENT UNDERSTANDS THE ADVANTAGES,
30 DISADVANTAGES, ALTERNATIVES, POTENTIAL ADVERSE EFFECTS, AND EXPECTED RESPONSE TO THE RECOMMENDED

1 (E) EPILEPSY OR AN INTRACTABLE SEIZURE DISORDER;

2 (F) MULTIPLE SCLEROSIS;

3 (G) CROHN'S DISEASE;

4 (H) PAINFUL PERIPHERAL NEUROPATHY;

5 (I) A CENTRAL NERVOUS SYSTEM DISORDER RESULTING IN CHRONIC, PAINFUL SPASTICITY OR MUSCLE SPASMS;

6 (J) ADMITTANCE INTO HOSPICE CARE IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT; OR

7 (K) ANY OTHER MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION APPROVED BY THE LEGISLATURE.

8 ~~(2)~~(3) "Department" means the department of public health and human services provided for in
9 2-15-2201.

10 ~~(3)~~(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

11 ~~(4)~~(5) "Marijuana" has the meaning provided in 50-32-101.

12 (6) (A) "MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT THAT CONTAINS MARIJUANA AND IS INTENDED FOR
13 USE BY A REGISTERED CARDHOLDER BY A MEANS OTHER THAN SMOKING.

14 (B) THE TERM INCLUDES BUT IS NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

15 (7) (A) "MARIJUANA-INFUSED PRODUCTS PROVIDER" MEANS A MONTANA RESIDENT WHO MEETS THE
16 REQUIREMENTS OF [SECTIONS 1 THROUGH 23] AND WHO HAS APPLIED FOR AND RECEIVED A REGISTRY IDENTIFICATION
17 CARD TO MANUFACTURE AND PROVIDE MARIJUANA-INFUSED PRODUCTS FOR A REGISTERED CARDHOLDER.

18 (B) THE TERM DOES NOT INCLUDE THE CARDHOLDER'S TREATING OR REFERRAL PHYSICIAN.

19 ~~(5)~~(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

20 ~~(6)~~(9) "Paraphernalia" has the meaning provided in 45-10-101.

21 ~~(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office~~
22 ~~located in Montana.~~

23 ~~(8)~~(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the
24 department to cultivate, manufacture, possess, or transport marijuana for use by ASSIST a registered cardholder
25 AS ALLOWED UNDER [SECTIONS 1 THROUGH 23].

26 (b) The term does not include the cardholder's TREATING PHYSICIAN OR REFERRAL physician.

27 (11) "REFERRAL PHYSICIAN" MEANS A PERSON WHO:

28 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

29 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

30 (C) IS THE PHYSICIAN TO WHOM A PATIENT'S TREATING PHYSICIAN HAS REFERRED THE PATIENT FOR PHYSICAL

(2) The purpose of [sections 1 through 47 23] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 47 23] by persons who obtain registry identification cards; ~~and~~

(C) ALLOW INDIVIDUALS TO ASSIST A LIMITED NUMBER OF REGISTERED CARDHOLDERS WITH THE CULTIVATION AND MANUFACTURE OF MARIJUANA OR MARIJUANA-INFUSED PRODUCTS;

(D) ESTABLISH REPORTING REQUIREMENTS FOR PRODUCTION OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AND INSPECTION REQUIREMENTS FOR PREMISES; AND

~~(c)~~(E) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 47 23], the following definitions apply:

(1) "CORRECTIONAL FACILITY OR PROGRAM" MEANS A FACILITY OR PROGRAM THAT IS DESCRIBED IN 53-1-202 AND TO WHICH A PERSON MAY BE ORDERED BY ANY COURT OF COMPETENT JURISDICTION.

~~(1)(2)~~ "Debilitating medical condition" means: ~~a medical condition determined by a physician to be debilitating for the person diagnosed with the condition~~

(A) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE DEFICIENCY SYNDROME WHEN THE CONDITION OR DISEASE RESULTS IN SYMPTOMS THAT SERIOUSLY AND ADVERSELY AFFECT THE PATIENT'S HEALTH STATUS;

(B) CACHEXIA OR WASTING SYNDROME;

(C) SEVERE CHRONIC PAIN THAT IS PERSISTENT PAIN OF SEVERE INTENSITY THAT SIGNIFICANTLY INTERFERES WITH DAILY ACTIVITIES AS DOCUMENTED BY THE PATIENT'S TREATING PHYSICIAN AND BY:

(i) OBJECTIVE PROOF OF THE ETIOLOGY OF THE PAIN, INCLUDING DIAGNOSTIC TESTS THAT MAY INCLUDE BUT ARE NOT LIMITED TO THE RESULTS OF AN X-RAY, COMPUTERIZED TOMOGRAPHY SCAN, OR MAGNETIC RESONANCE IMAGING;

OR

(ii) CONFIRMATION OF THAT DIAGNOSIS FROM A SECOND PHYSICIAN WHO IS INDEPENDENT OF THE TREATING PHYSICIAN AND WHO CONDUCTS A PHYSICAL EXAMINATION;

(D) INTRACTABLE NAUSEA OR VOMITING;

SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

~~WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND~~
~~WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND~~
~~WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT;~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading -- Blue Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through ~~47~~ 23] may be cited as the "Montana Marijuana Act".

Exhibit #2
4.28.11
SB423

Amendments to Senate Bill No. 423
Reference Copy

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 28, 2011 (4:20pm)

1. Page 4, line 4.

Strike: "REGISTERED CARDHOLDER,"

Following: "PROVIDER"

Strike: "└"

2. Page 6, line 8.

Following: "department shall"

Strike: "verify"

Insert: "review"

3. Page 7, line 3.

Strike: "registered cardholders"

Following: "and"

Strike: "└"

Following: "providers"

Strike: "└"

4. Page 7, line 5.

Strike: "cardholders"

Following: "or"

Strike: "└"

Following: "providers"

Strike: "└"

5. Page 7, line 8.

Strike: "15"

Insert: "25"

6. Page 7, line 28.

Strike: "and (3)"

Insert: "through (4)"

7. Page 9.

Following: line 10

Insert: "(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician."

Renumber: subsequent subsections

8. Page 10, line 28.

Following: "(A) "

Insert: "(i) "

9. Page 11.

Following: line 1

Insert: "(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders."

10. Page 11, line 15 through line 16.

Strike: "; or" on line 15 through "PRODUCTS PROVIDER" on line 16

11. Page 12, line 5.

Following: "SMOKING"

Insert: "unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider"

12. Page 13.

Following: line 20

Insert: "(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct."

Renumber: subsequent subsections

13. Page 13, line 30.

Following: "(1) "

Insert: "(a) "

14. Page 14, line 1.

Following: "hospices"

Insert: "and residential care facilities"

15. Page 14, line 2.

Strike: "in the order listed"

16. Page 14, line 4.

Strike: "(a) "

Insert: "(i) "

17. Page 14, line 5.

Following: " ; "

Insert: "or"

18. Page 14, line 6.

Strike: "(b) "

Insert: "(ii) "

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney"

19. Page 14, line 7.

Strike: " ; or "

Insert: ". "

20. Page 14, line 8.

Strike: "(c) "

Insert: "(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1) (a), the facility shall"

21. Page 14, line 9.

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney, if any, "

22. Page 19, line 4.

Strike: "FREQUENT, "

23. Page 19, line 7.

Strike: "AT ANY TIME"

Insert: "during normal business hours"

24. Page 19, line 13.

Following: "INVESTIGATION"

Insert: "during normal business hours"

25. Page 19, line 24.

Strike: "or"

26. Page 19, line 27.

Following: "PRODUCTS"

Insert: " ; or

(c) fails to cooperate with the department concerning an

Exhibit #3
4.28.11
SB423

Amendments to Senate Bill No. 423
1st Reading Copy

Requested by Representative Diane Sands

For the Senate Free Conference Committee

Prepared by Sue O'Connell
April 28, 2011 (6:10pm)

1. Page 2, line 25.

Following: "INCLUDING"

Insert: "relevant and necessary"

2. Page 2, line 29.

Strike: "AND WHO CONDUCTS A PHYSICAL EXAMINATION"

3. Page 4, line 25.

Following: "RELEVANT"

Insert: "and necessary"

4. Page 4, line 27.

Following: "REVIEWING"

Insert: "any"

Following: "RELEVANT"

Insert: "and necessary"

- END -

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



Exhibit #4
4.28.11
SB 423
JOHN BOHLINGER
LT. GOVERNOR

April 28, 2011

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, MT 59620

Dear President Peterson:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 423 (SB 423) "AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

As presented to me, Senate Bill 423 is disappointing. In its original form, Senate Bill 423 introduced by Senator Essmann was a more substantive bill with a broader statutory scheme that included a licensing system. Numerous iterations of Senate Bill 423 surfaced during the session and over eleven amendments were proposed.

The Children, Families, Health and Human Services Interim Legislative Committee worked diligently for eighteen months, with the input of all stakeholders, devising a medical marijuana reform bill eventually introduced as House Bill 68. The interim committee heard from citizens, law enforcement officers, patients, hospice workers, growers, community leaders, etc. Like the original version of SB 423, House Bill 68 was more substantive but regrettably was set aside at the outset of the session, never to surface again.

Senate Bill 423 does have some positive provisions. It addresses the needs of law enforcement and local government. It also provides local jurisdictions the ability to ban operations within certain areas, including storefronts, which send the wrong message to children in our communities.

However, Senate Bill 423 has no licensing provisions for providers and laboratories and no genetic tracking of medical marijuana to assist in prosecuting individuals who illegally divert marijuana to non-cardholders. It abruptly shuts down the provider industry effective July 1, 2011, eliminates the jobs associated with the industry and makes access to medical marijuana very difficult for vulnerable patients. More importantly, the content of the current version of the bill ignores over forty hours of compelling testimony by the public describing patients who are suffering terribly and their reliance on "caregivers", now known as "providers" in Senate Bill 423.

As you know, I vetoed House Bill 161, the outright repeal of I-148, the 2004 citizen initiative that created our current medical marijuana law. That initiative passed with a vote of 276,042 to 170,579; almost 62% of those Montanans casting a ballot voted for the measure. It is not the role of my office or the legislative

body to pass laws that ignore the will of the people expressed at the ballot box. I believe HB 423 essentially repeals I-148.

This is the fourth session since passage of the medical marijuana initiative. I hoped this legislature would pass a law that honored the intent of the voters while providing law enforcement the necessary tools to prevent abuse and protect public safety. I agree current law is unacceptable and have spent considerable time crafting amendments to the current bill to set up a reasonable regulatory framework, missing in the provisions of I-148. My amendments to the Senate Bill 423 are constrained by the title and I am unable to address the need for licensing or legally requiring genetic tracking of the strains of marijuana. Nonetheless, I *urge* the legislature to uphold my amendatory veto.

My amendments do the following:

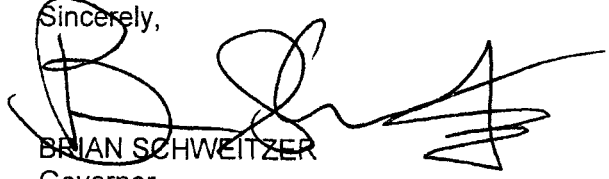
- SB 423 requires one physician for minors. While there are only 51 minors on the registry as of April 1, 2011, I believe it is appropriate that two physicians certify in those rare cases a child may respond to treatment with medical marijuana in an edible form or topical cream.
- My amendments to SB 423 address the bill's constitutional problems. SB 423 ignores privacy concerns. Article II, Section § 10 of our Montana Constitution guarantees our citizens the right to privacy. Those who register for cards have a constitutional right to privacy protected by Article II, Section § 10. Under SB 423, cardholders, i.e. patients' names and addresses must be provided to local law enforcement by the Department of Public Health and Human Services. The right to privacy is a fundamental right. The blanket disclosure requirement in the bill would never survive the strict scrutiny standard for invading a patient's right to privacy. The requirement also directly violates the Montana Government Health Care Information Act. (*See*, 50-16-601-611, MCA.) Our Montana Government Health Care Information Act was enacted with the express purpose of expanding the Health Insurance Portability and Accountability Act of 1996 (HIPAA) coverage to non-HIPAA covered entities. (*See*, 50-16-502(6) & (7) & 505, MCA.) Releasing a list of the identities of patients is forbidden under HIPAA and our law. Currently, law enforcement can verify that particular people who hold themselves out as cardholders actually are cardholders with the Department of Public Health and Human Services. This process has worked well and need not be tampered with in the new law. Handing over a list of cardholders to law enforcement is unfair to vulnerable patients who legitimately qualify for a card. I fear it would drive those patients to the illegal market for marijuana.
- Compounding the privacy issues, SB 423 also permits law enforcement unlimited access, without permission or warrant, to the private homes of cardholders who grow their own marijuana. Article II, Section § 11 of our Montana constitution protects citizens from unreasonable searches and seizures. Patients who grow their own plants were not the genesis of any of the problems that arose under the current law and should not now be subject to warrantless searches. If law enforcement officers believe a patient is diverting their marijuana or growing beyond the allowed limits they should properly investigate the matter; gain access through consent or through a search warrant. Law enforcement, working with the Department of Public Health and Human Services can ensure suspected abuse is investigated and when confirmed, appropriate enforcement action taken. My amendments permit inspections of providers and manufacturers by the Department of Public Health and Human Services and law enforcement during normal business hours. My amendments provide for a reasonable time limit for unannounced inspections, which may often occur in a provider's personal residence. My amendments also provide reasonable procedures for securing marijuana products and paraphernalia where a cardholder is admitted to a health care facility.
- My amendments move the reviewing authority for approving a new medical condition for eligibility for medical marijuana treatment from the legislature to the Department of Public Health and Human Services. The Department of Public Health and Human Services is the only agency in

the bill with all the responsibility for administering the law. It is in a good position to review records and seek advice from medical experts if a physician is seeking to have a new medical condition approved for a potential cardholder. These patients need not be subject to the long delay between sessions awaiting approval of their physician's recommendations.

- My amendments also provide for a more rational transition time for providers to register and comply with the new law. The new effective date for some of the provisions in the bill is October 1, 2011 and for other provisions July 1, 2011. The local government and law enforcement provisions are effective upon passage and approval.
- Providers who grow and manufacture marijuana products must register their location with the Department of Public Health and Human Services and local law enforcement, ensuring more effective compliance enforcement. My amendments provide rule making authority for the Department to enable cardholders to receive a list of providers in a particular area. Given that SB 423 prohibits advertizing and storefronts may be prohibited by local jurisdictions, it is essential patients are able to find a provider.
- I believe SB 423 makes access to medical marijuana far too difficult for patients, many of whom are suffering chronic and severe illness and do not have the physical or financial ability to grow their own marijuana to treat their debilitating condition. Patients must be able to obtain medical marijuana from legitimate sources with a reliable product. Therefore, I have increased the number of cardholders a provider or manufacturer may have from three to twenty-five. I believe this limit will prevent the large grow operations that boomed under the current law. My amendments do allow a provider to charge for their plant products and lift the no profit restriction from the bill. Another amendment allows a provider to be both a grower and manufacturer of marijuana infused product. There has been no testimony that this now common practice has been a problem.
- SB 423 codifies the restrictions on physicians and provides for review of physicians who certify more than fifteen patients a year. My amendment increases that number to 50 patients. Fifty is less than 5% of your average Montana physician's patient load and this limit will still certainly curtail the number of cardholders.
- Finally, I have put rulemaking authority in the Department of Public Health and Human Services to write rules around the transportation, possession of samples, testing and labeling of marijuana by laboratories in Montana. Laboratories have been receiving, testing and labeling marijuana under the current law and doing so protects the patients in titrating proper doses and assists the medical community with scientific information about the value of particular strains on specific debilitating conditions. It may also help us in the future with tracking marijuana and prosecuting illegal activity. My amendments permit laboratories to register with the department and provide legal protections to the laboratories that do testing and labeling.

I respectfully request that the legislature agree to these proposed amendments. It would be irresponsible to adjourn without a reform bill that addresses the weakness of I-148 and the concerns raised at public hearings while honoring the intent of the initiative and the Montanans who voted for it.

Sincerely,



BRIAN SCHWEITZER
Governor

Amendments to Senate Bill No. 423
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 28, 2011 (2:41pm)

1. Title, page 1, line 13.
Strike: "50-46-201, 50-46-202,"
2. Page 2, line 4.
Following: "delivery,"
Insert: "including delivery for laboratory testing,"
3. Page 2, line 24 through line 25.
Following: "BY"
Strike: ":" on line 24 through "(I)" on line 25
4. Page 2, line 25.
Following: "INCLUDING"
Insert: "relevant and necessary"
5. Page 2, line 27 through line 29.
Strike: "OR" on line 27 through "EXAMINATION;" on line 29
6. Page 3, line 7.
Strike: "LEGISLATURE"
Insert: "department by rule"
7. Page 4, line 4.
Strike: "REGISTERED CARDHOLDER,"
Following: "PROVIDER"
Strike: "L"
8. Page 4, line 25.
Following: "RELEVANT"
Insert: "and necessary"
9. Page 4, line 27.
Following: "REVIEWING"
Insert: "any"
Following: "RELEVANT"
Insert: "and necessary"
10. Page 6, line 8.
Following: "department"
Strike: "shall" through "renewal"

Insert: "must have complete application materials and may verify any documentation that is"

11. Page 7, line 3.

Strike: "registered cardholders"

Following: "and"

Strike: "└"

Following: "providers"

Strike: "└"

12. Page 7, line 5.

Strike: "cardholders"

Following: "or"

Strike: "└"

Following: "providers"

Strike: "└"

13. Page 7, line 8.

Strike: "15"

Insert: "50"

14. Page 7, line 19 and line 20.

Strike: ":" on line 19 through "(A)" on line 20

15. Page 7, line 21 through line 25.

Strike: "; AND" on line 21 through "CERTIFICATIONS" on line 25

16. Page 7, line 28.

Strike: "and (3)"

Insert: "through (4)"

17. Page 8, line 15.

Following: "any"

Insert: ", or names, dates of birth, and street addresses of both providers if a patient has both types of providers"

18. Page 9.

Following: line 10

Insert: "(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician."

Renumber: subsequent subsections

19. Page 10, line 30.

Strike: "THREE"

Insert: "25"

20. Page 11, line 3.

Strike: "TWO"

Insert: "24"

21. Page 11, line 5 through line 7.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

22. Page 11, line 10 through line 15.

Strike: ":" on line 10 through "(C)" on line 15

Following: "CARDHOLDER" on line 15

Strike: "; or"

Insert: "."

23. Page 11, line 16.

Strike: line 16 in its entirety

24. Page 11, line 17.

Strike: "(a)"

25. Page 11, line 19.

Strike: "(i)"

Insert: "(a)"

Renumber: subsequent subsections

26. Page 11, line 24 through line 25.

Strike: subsection (b) in its entirety

27. Page 12, line 3 through line 4.

Following: "PROVIDER" on line 3

Strike: ":" through "(A)" on line 4

Following: "PRODUCTS" on line 4

Strike: "; AND" on line 4

Insert: "unless the marijuana-infused products provider is also a registered provider."

28. Page 12, line 5.

Strike: line 5 in its entirety

29. Page 12, line 28 through page 13, line 20.

Strike: subsection (D) through subsection (M) in their entirety

Insert: "(d) confirm that the physician:

(i) has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other treating physicians and that may have included the patient's reaction and response to conventional medical therapies;

(ii) has reviewed all prescription and nonprescription medications and supplements used by the patient and has

considered the potential drug interaction with marijuana;

(iii) has explained the potential risks and benefits of the use of marijuana to the patient; and

(iv) plans to continue to assess the patient and the patient's use of marijuana during the course of the physician-patient relationship;

(e) state that in the physician's professional opinion the potential benefits of the use of marijuana would likely outweigh the health risks for the patient; and

(f) attest that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct."

Renumber: subsequent subsection

30. Page 13, line 30.

Following: "(1)"

Insert: "(a)"

31. Page 14, line 1.

Following: "hospices"

Insert: "and residential care facilities"

32. Page 14, line 2.

Strike: "in the order listed"

33. Page 14, line 4.

Strike: "(a)"

Insert: "(i)"

34. Page 14, line 5.

Following: ";

Insert: "or"

35. Page 14, line 6.

Strike: "(b)"

Insert: "(ii)"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney"

36. Page 14, line 7.

Strike: "; or"

Insert: "."

37. Page 14, line 8.

Strike: "(c)"

Insert: "(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall"

38. Page 14, line 9.

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney, if any,"

39. Page 14, line 11 and line 12.

Following: "respond by"

Strike: "removing and destroying"

Insert: "storing"

Following: "marijuana" on line 12

Insert: "and any paraphernalia for up to 45 days for the registered cardholder or by transferring the marijuana to the cardholder's provider or marijuana-infused products provider to be held for the cardholder. If the cardholder is released from the health care facility within 45 days, the marijuana and any paraphernalia must be returned to the cardholder. After 45 days, the marijuana and any paraphernalia must be destroyed"

40. Page 14, line 26.

Strike: "or"

41. Page 14, line 27.

Following: "marijuana"

Insert: "; or

(c) a testing laboratory or its owners, officers, or employees are transporting, receiving, or in possession of marijuana samples for testing and labeling under rules adopted by the department"

42. Page 19, line 4.

Strike: "FREQUENT,"

43. Page 19, line 7.

Strike: "AT ANY TIME"

Insert: "during normal business hours of 8 a.m. to 5 p.m."

44. Page 19, line 13.

Following: "INVESTIGATION"

Insert: "during normal business hours of 8 a.m. to 5 p.m."

45. Page 19, line 24.

Strike: "or"

46. Page 19, line 27.

Following: "PRODUCTS"

Insert: "; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing the person's own marijuana"

47. Page 21.

Following: line 30

Insert: "(d) a process for maintaining a list of providers and marijuana-infused products providers who have fewer than 25 registered cardholders and who want their contact information provided to cardholders in their area;

(e) procedures for adding to the list of debilitating medical conditions for which use of marijuana is allowed;

(f) requirements for testing laboratories to register with the department;

(g) the manner in which testing laboratories may transport, receive, test, and label marijuana samples for providers and marijuana-infused product providers;

(h) inspections procedures for registered cardholders who have chosen to cultivate and manufacture marijuana for their own use; and"

Renumber: subsequent subsection

48. Page 28, line 17 through page 30, line 6.

Strike: section 30 through section 31 in their entirety

Renumber: subsequent sections

49. Page 32, line 28.

Strike: "July 1, 2011"

Insert: "October 1, 2011"

50. Page 32, line 30.

Strike: "Before July 1, 2011,"

Insert: "By October 1, 2011,"

51. Page 33, line 29.

Strike: "July 1, 2011"

Insert: "October 1, 2011"

52. Page 33, line 30 through Page 34, line 1.

Strike: "30" on page 33, line 30 through "38" on page 34, line 1
Insert: "31, 33, and 36"

- END -

BUSINESS REPORT

MONTANA SENATE FREECONFERENCE COMMITTEE ON SENATE BILL 423 62nd LEGISLATURE ~ REGULAR SESSION

Date: April 28, 2011

Place: Capitol

Time: 4:30 P.M.

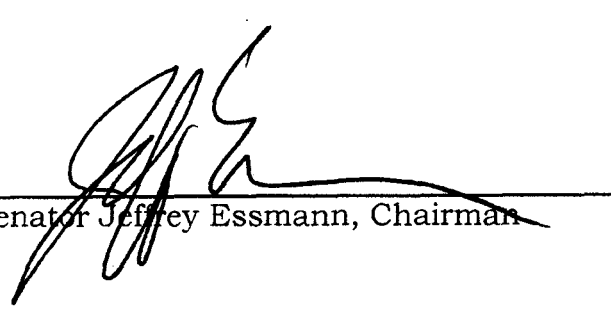
Room: 335

BILLS and RESOLUTIONS HEARD:

NA

EXECUTIVE ACTION TAKEN:

Further amend SB 423



Senator Jeffrey Essmann, Chairman

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4.28.11 ~~HB~~/SB No. 423

NAME	PRESENT	ABSENT/ EXCUSED
Sen. <u>Essmann, chair</u>	✓	
Sen. <u>Vincent</u>	✓	
Sen. <u>Jensen</u>	✓	
Rep. <u>Smith, Vice Chair</u>	✓	
Rep. <u>Berry</u>	✓	
Rep. <u>Sands</u>	✓	

Staff: Sue O'Connell

Secretary: Debra Behrens



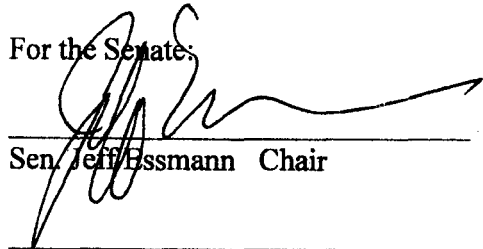
FREE CONFERENCE COMMITTEE
on Senate Bill 423
Report No. 003, April 28, 2011

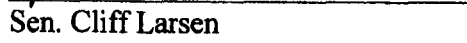
Page 1 of 4

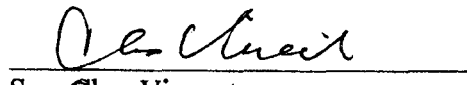
Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 423** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:

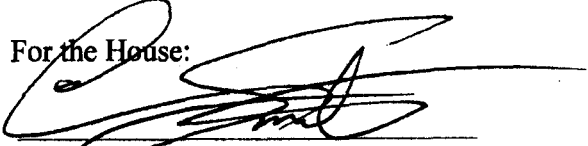

Sen. Jeff Essmann Chair

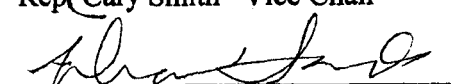

Sen. Cliff Larsen

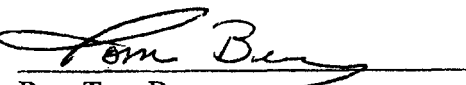

Sen. Chas Vincent


Amendment Coordinator

For the House:


Rep. Cary Smith Vice Chair


Rep. Diane Sands


Rep. Tom Berry

And, recommend that **Senate Bill 423** (reference copy -- salmon) be amended as follows:

1. Page 2, line 25.

Following: "INCLUDING"

Insert: "relevant and necessary"

2. Page 4, line 4.

Strike: "REGISTERED CARDHOLDER,"

Following: "PROVIDER"

Strike: "L"

3. Page 4, line 25.

ADOPT
REJECT

Amendment # SB 423-003

SB0423003FC.sdr

Following: "RELEVANT"
Insert: "and necessary"

4. Page 4, line 27.
Following: "REVIEWING"
Insert: "any"
Following: "RELEVANT"
Insert: "and necessary"

5. Page 6, line 8.
Following: "department shall"
Strike: "verify"
Insert: "review"

6. Page 7, line 3.
Strike: "registered cardholders"
Following: "and"
Strike: "└"
Following: "providers"
Strike: "└"

7. Page 7, line 5.
Strike: "cardholders"
Following: "or"
Strike: "└"
Following: "providers"
Strike: "└"

8. Page 7, line 8.
Strike: "15"
Insert: "25"

9. Page 7, line 28.
Strike: "and (3)"
Insert: "through (4)"

10. Page 9.
Following: line 10
Insert: "(3) An application for a registry identification card
for a minor must be accompanied by the written certification
and accompanying statements required pursuant to [section 7]
from a second physician in addition to the minor's treating
physician or referral physician."
Renumber: subsequent subsections

11. Page 10, line 28.
Following: "(A)"
Insert: "(i)"

12. Page 11.

Following: line 1

Insert: "(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders."

13. Page 11, line 15 through line 16.

Strike: "; or" on line 15 through "PRODUCTS PROVIDER" on line 16

14. Page 12, line 5.

Following: "SMOKING"

Insert: "unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider"

15. Page 13.

Following: line 20

Insert: "(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct."

Renumber: subsequent subsections

16. Page 13, line 30.

Following: "(1)"

Insert: "(a)"

17. Page 14, line 1.

Following: "hospices"

Insert: "and residential care facilities"

18. Page 14, line 2.

Strike: "in the order listed"

19. Page 14, line 4.

Strike: "(a)"

Insert: "(i)"

20. Page 14, line 5.

Following: ";

Insert: "or"

21. Page 14, line 6.

Strike: "(b)"

Insert: "(ii)"

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney"

22. Page 14, line 7.

Strike: "; or"

Insert: "."

23. Page 14, line 8.

Strike: "(c)"

Insert: "(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall"

24. Page 14, line 9.

Following: "provider"

Insert: ", "

Strike: "OR"

Following: "PROVIDER"

Insert: ", court-appointed guardian, or person with a power of attorney, if any,"

25. Page 19, line 4.

Strike: "FREQUENT."

26. Page 19, line 7.

Strike: "AT ANY TIME"

Insert: "during normal business hours"

27. Page 19, line 13.

Following: "INVESTIGATION"

Insert: "during normal business hours"

28. Page 19, line 24.

Strike: "or"

29. Page 19, line 27.

Following: "PRODUCTS"

Insert: "; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana"

- END -

MONTANA STATE SENATE

VISITORS REGISTER

Page 1 of 1

CONFERENCE/FREE CONFERENCE COMMITTEE on ~~HB~~/SB No. 423

Please print ~ Please print ~ Please print

NAME	Representing	Support	Oppose	Info

Please leave prepared testimony with Secretary.

1 SENATE BILL NO. 423

2 INTRODUCED BY J. ESSMANN

3 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA THERAPEUTIC MARIJUANA ACT
6 AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A SYSTEM OF LICENSING
7 REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER
8 OF MARIJUANA FOR THERAPEUTIC USE BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING
9 INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING
10 RULEMAKING AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; ESTABLISHING A TRANSITION
11 PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-136, 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-101,~~
12 ~~45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202, 45-9-203,~~
13 ~~46-18-202, 50-46-201, 50-46-202, AND 61-11-101, 69-1-114, AND 69-1-401, MCA; REPEALING SECTIONS~~
14 ~~50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210,~~
15 ~~MCA; AND PROVIDING EFFECTIVE DATES."~~

16
17 ~~WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A~~
18 ~~CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR~~
19 ~~DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND~~
20 ~~WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND~~
21 ~~WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE~~
22 ~~OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED~~
23 ~~SUBSTANCES ACT;~~

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

26 (Refer to Third Reading -- Blue Bill)

27 Strike everything after the enacting clause and insert:

28
29 NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 47 23] may be cited as the
30 "Montana Marijuana Act".

1 (2) The purpose of [sections 1 through 47 23] is to:

2 (a) provide legal protections to persons with debilitating medical conditions who engage in the use of
3 marijuana to alleviate the symptoms of the debilitating medical condition;

4 (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
5 [sections 1 through 47 23] by persons who obtain registry identification cards; ~~and~~

6 (C) ALLOW INDIVIDUALS TO ASSIST A LIMITED NUMBER OF REGISTERED CARDHOLDERS WITH THE CULTIVATION
7 AND MANUFACTURE OF MARIJUANA OR MARIJUANA-INFUSED PRODUCTS;

8 (D) ESTABLISH REPORTING REQUIREMENTS FOR PRODUCTION OF MARIJUANA AND MARIJUANA-INFUSED
9 PRODUCTS AND INSPECTION REQUIREMENTS FOR PREMISES; AND

10 ~~(e)~~(E) give local governments a role in establishing standards for the cultivation, manufacture, and use
11 of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

12
13 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 47 23], the following definitions
14 apply:

15 (1) "CORRECTIONAL FACILITY OR PROGRAM" MEANS A FACILITY OR PROGRAM THAT IS DESCRIBED IN 53-1-202
16 AND TO WHICH A PERSON MAY BE ORDERED BY ANY COURT OF COMPETENT JURISDICTION.

17 ~~(4)(2)~~ "Debilitating medical condition" means: ~~a medical condition determined by a physician to be~~
18 ~~debilitating for the person diagnosed with the condition~~

19 (A) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE
20 DEFICIENCY SYNDROME WHEN THE CONDITION OR DISEASE RESULTS IN SYMPTOMS THAT SERIOUSLY AND ADVERSELY
21 AFFECT THE PATIENT'S HEALTH STATUS;

22 (B) CACHEXIA OR WASTING SYNDROME;

23 (C) SEVERE CHRONIC PAIN THAT IS PERSISTENT PAIN OF SEVERE INTENSITY THAT SIGNIFICANTLY INTERFERES
24 WITH DAILY ACTIVITIES AS DOCUMENTED BY THE PATIENT'S TREATING PHYSICIAN AND BY:

25 (I) OBJECTIVE PROOF OF THE ETIOLOGY OF THE PAIN, INCLUDING RELEVANT AND NECESSARY DIAGNOSTIC TESTS
26 THAT MAY INCLUDE BUT ARE NOT LIMITED TO THE RESULTS OF AN X-RAY, COMPUTERIZED TOMOGRAPHY SCAN, OR
27 MAGNETIC RESONANCE IMAGING; OR

28 (II) CONFIRMATION OF THAT DIAGNOSIS FROM A SECOND PHYSICIAN WHO IS INDEPENDENT OF THE TREATING
29 PHYSICIAN AND WHO CONDUCTS A PHYSICAL EXAMINATION;

30 (D) INTRACTABLE NAUSEA OR VOMITING;

1 (E) EPILEPSY OR AN INTRACTABLE SEIZURE DISORDER;

2 (F) MULTIPLE SCLEROSIS;

3 (G) CROHN'S DISEASE;

4 (H) PAINFUL PERIPHERAL NEUROPATHY;

5 (I) A CENTRAL NERVOUS SYSTEM DISORDER RESULTING IN CHRONIC, PAINFUL SPASTICITY OR MUSCLE SPASMS;

6 (J) ADMITTANCE INTO HOSPICE CARE IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT; OR

7 (K) ANY OTHER MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION APPROVED BY THE LEGISLATURE.

8 ~~(2)~~(3) "Department" means the department of public health and human services provided for in
9 2-15-2201.

10 ~~(3)~~(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

11 ~~(4)~~(5) "Marijuana" has the meaning provided in 50-32-101.

12 (6) (A) "MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT THAT CONTAINS MARIJUANA AND IS INTENDED FOR
13 USE BY A REGISTERED CARDHOLDER BY A MEANS OTHER THAN SMOKING.

14 (B) THE TERM INCLUDES BUT IS NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

15 (7) (A) "MARIJUANA-INFUSED PRODUCTS PROVIDER" MEANS A MONTANA RESIDENT WHO MEETS THE
16 REQUIREMENTS OF [SECTIONS 1 THROUGH 23] AND WHO HAS APPLIED FOR AND RECEIVED A REGISTRY IDENTIFICATION
17 CARD TO MANUFACTURE AND PROVIDE MARIJUANA-INFUSED PRODUCTS FOR A REGISTERED CARDHOLDER.

18 (B) THE TERM DOES NOT INCLUDE THE CARDHOLDER'S TREATING OR REFERRAL PHYSICIAN.

19 ~~(5)~~(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

20 ~~(6)~~(9) "Paraphernalia" has the meaning provided in 45-10-101.

21 ~~(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office~~
22 ~~located in Montana.~~

23 ~~(8)~~(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the
24 department to cultivate, manufacture, possess, or transport marijuana for use by ASSIST a registered cardholder
25 AS ALLOWED UNDER [SECTIONS 1 THROUGH 23].

26 (b) The term does not include the cardholder's TREATING PHYSICIAN OR REFERRAL physician.

27 (11) "REFERRAL PHYSICIAN" MEANS A PERSON WHO:

28 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

29 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

30 (C) IS THE PHYSICIAN TO WHOM A PATIENT'S TREATING PHYSICIAN HAS REFERRED THE PATIENT FOR PHYSICAL

1 EXAMINATION AND MEDICAL ASSESSMENT.

2 ~~(9)(12)~~ "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
3 condition who has received and maintains a valid registry identification card.

4 ~~(13) "REGISTERED PREMISES" MEANS THE LOCATION AT WHICH A REGISTERED CARDHOLDER, PROVIDER, OR~~
5 ~~MARIJUANA-INFUSED PRODUCTS PROVIDER HAS INDICATED THE PERSON WILL CULTIVATE OR MANUFACTURE MARIJUANA~~
6 ~~FOR A REGISTERED CARDHOLDER.~~

7 ~~(10)(14)~~ "Registry identification card" means a document issued by the department pursuant to [section
8 3] that identifies a person as a registered cardholder ~~or, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER.~~

9 ~~(11)(15)~~ (a) "Resident" means an individual who meets the requirements of 1-1-215.

10 (b) An individual is not considered a resident for the purposes of [sections 1 through ~~17~~ 23] if the
11 individual:

12 (i) claims residence in another state or country for any purpose; or

13 (ii) is an absentee property owner paying property tax on property in Montana.

14 ~~(16) "SECOND DEGREE OF KINSHIP BY BLOOD OR MARRIAGE" MEANS A MOTHER, FATHER, BROTHER, SISTER, SON,~~
15 ~~DAUGHTER, SPOUSE, GRANDPARENT, GRANDCHILD, MOTHER-IN-LAW, FATHER-IN-LAW, BROTHER-IN-LAW, SISTER-IN-LAW,~~
16 ~~SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT-IN-LAW, GRANDCHILD-IN-LAW, STEPFATHER, STEPMOTHER,~~
17 ~~STEPBROTHER, STEPSISTER, STEPSON, STEPDAUGHTER, STEPGRANDPARENT, OR STEPGRANDCHILD.~~

18 ~~(12)(17)~~ "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
19 12 inches in diameter.

20 ~~(13)(18)~~ "Standard of care" means ~~the standard established by rule by the board of medical examiners,~~
21 ~~AT A MINIMUM, THE FOLLOWING ACTIVITIES WHEN UNDERTAKEN BY A PATIENT'S TREATING PHYSICIAN OR REFERRAL~~
22 ~~PHYSICIAN IF THE TREATING PHYSICIAN OR REFERRAL PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT~~
23 ~~WITH A DEBILITATING MEDICAL CONDITION:~~

24 ~~(A) OBTAINING THE PATIENT'S MEDICAL HISTORY;~~

25 ~~(B) PERFORMING A RELEVANT AND NECESSARY PHYSICAL EXAMINATION;~~

26 ~~(C) REVIEWING PRIOR TREATMENT AND TREATMENT RESPONSE FOR THE DEBILITATING MEDICAL CONDITION;~~

27 ~~(D) OBTAINING AND REVIEWING ANY RELEVANT AND NECESSARY DIAGNOSTIC TEST RESULTS RELATED TO THE~~
28 ~~DEBILITATING MEDICAL CONDITION;~~

29 ~~(E) DISCUSSING WITH THE PATIENT AND ENSURING THAT THE PATIENT UNDERSTANDS THE ADVANTAGES,~~
30 ~~DISADVANTAGES, ALTERNATIVES, POTENTIAL ADVERSE EFFECTS, AND EXPECTED RESPONSE TO THE RECOMMENDED~~

1 TREATMENT:2 (F) MONITORING THE RESPONSE TO TREATMENT AND POSSIBLE ADVERSE EFFECTS; AND3 (G) CREATING AND MAINTAINING PATIENT RECORDS THAT REMAIN WITH THE PHYSICIAN.4 (19) "TREATING PHYSICIAN" MEANS A PERSON WHO:5 (A) IS LICENSED UNDER TITLE 37, CHAPTER 3;6 (B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND7 (C) HAS A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON APPLYING TO BE A REGISTERED8 CARDHOLDER.

9 ~~(14)~~(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any
10 mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person
11 with a debilitating medical condition.

12 (b) The term does not include the seeds, stalks, and roots of the plant.

13 ~~(15)~~(21) "Written certification" means a statement signed by a treating physician OR REFERRAL PHYSICIAN
14 that meets the requirements of [section 6 7] and is provided in a manner that meets the standard of care.

15

16 NEW SECTION. Section 3. Department responsibilities -- issuance of cards -- confidentiality --
17 reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification
18 cards to Montana residents who:

19 (i) have debilitating medical conditions and who submit applications meeting the requirements of
20 [sections 1 through 47 23]; and

21 (ii) are named as providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS by persons who obtain registry
22 identification cards for their debilitating medical conditions.

23 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
24 and transport marijuana as allowed by [sections 1 through 47 23].

25 (2) The department shall conduct criminal history background checks as required by [sections 4 and 5]
26 before issuing a registry identification card for a person named as a provider OR MARIJUANA-INFUSED PRODUCTS
27 PROVIDER.

28 (3) Registry identification cards issued pursuant to [sections 1 through 47 23] must:

29 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
30 which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition ~~or for~~ a provider, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall ~~verify~~ REVIEW the information contained in an application or renewal submitted pursuant to [sections 1 through ~~17~~ 23] and shall approve or deny an application or renewal within ~~15~~ 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within ~~15~~ 5 days of approving an application or renewal.

(5) REJECTION OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DEPARTMENT ACTION, SUBJECT TO JUDICIAL REVIEW.

~~(5)(6)~~ (A) Registry identification cards expire 1 year after the date of issuance unless:

(i) A PHYSICIAN HAS PROVIDED A WRITTEN CERTIFICATION STATING THAT A CARD IS VALID FOR A SHORTER PERIOD OF TIME; OR

(ii) a registered cardholder changes providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(B) A provider's OR MARIJUANA-INFUSED PRODUCTS PROVIDER'S registry identification card expires at the time the department issues a card to a new provider OR NEW MARIJUANA-INFUSED PRODUCTS PROVIDERS named by a registered cardholder.

~~(6)(7)~~ (7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, ~~or provider~~, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~(7)(8)~~ (8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection ~~(8)~~ (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

~~(8)(9)~~ The department shall provide the names of ~~registered cardholders and~~ providers, AND MARIJUANA-INFUSED PRODUCTS PROVIDERS to the local law enforcement agency having jurisdiction in the area in which the ~~cardholders or~~ providers, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS ~~live~~ ARE LOCATED. The law enforcement agency and its employees are subject to the confidentiality requirements of [section ~~14~~ 17].

~~(9)(10)~~ (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for ~~45~~ 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

~~(10)(11)~~ The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders ~~or~~ physicians, PROVIDERS, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE ON:

(A) THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA, PURSUANT TO 37-3-203; AND

(B) THE NUMBER OF PHYSICIANS WHOSE NAMES WERE PROVIDED TO THE BOARD BY THE DEPARTMENT AS REQUIRED UNDER SUBSECTION (10). THE REPORT MUST INCLUDE INFORMATION ON WHETHER A PHYSICIAN WHOSE PRACTICES WERE REVIEWED BY THE BOARD PURSUANT TO SUBSECTION (10) MET THE STANDARD OF CARE WHEN PROVIDING WRITTEN CERTIFICATIONS.

NEWSECTION. Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) ~~and (3)~~ THROUGH (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

1 (a) an application on a form prescribed by the department;
2 (b) an application fee or a renewal fee;
3 (c) the person's name, street address, and date of birth;
4 (d) proof of Montana residency;
5 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
6 will be obtaining marijuana from a provider OR A MARIJUANA-INFUSED PRODUCTS PROVIDER;

7 (F) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY
8 OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES, MANUFACTURES, OR OBTAINS FOR THE PERSON'S
9 DEBILITATING MEDICAL CONDITION;

10 ~~(f)~~(G) the name of the person's treating physician OR REFERRAL PHYSICIAN and the street address and
11 telephone number of the physician's office;

12 ~~(g)~~(H) the street address where the person is cultivating or manufacturing marijuana if the person is
13 cultivating or manufacturing marijuana for the person's own use;

14 ~~(h)~~(I) the name, date of birth, and street address of the individual the person has selected as a provider
15 OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any; and

16 ~~(i)~~(J) ~~a statement~~ THE WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS from the person's treating
17 physician OR REFERRAL PHYSICIAN as required pursuant to [section 6 7].

18 (2) The department shall issue a registry identification card to a minor if the materials required under
19 subsection ~~(2)~~ (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
20 care decisions;

21 (A) PROVIDES PROOF OF LEGAL GUARDIANSHIP AND RESPONSIBILITY FOR HEALTH CARE DECISIONS IF THE PERSON
22 IS SUBMITTING AN APPLICATION AS THE MINOR'S LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS;
23 AND

24 (B) signs and submits a written statement that:

25 ~~(a)~~(I) the minor's TREATING physician OR REFERRAL PHYSICIAN has explained to the minor and to the
26 minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and
27 benefits of the use of marijuana; and

28 ~~(b)~~(II) the minor's custodial parent or legal guardian with responsibility for health care decisions:

29 ~~(i)~~(A) consents to the use of marijuana by the minor;

30 ~~(ii)~~(B) agrees to serve as the minor's MARIJUANA-INFUSED PRODUCTS provider;

1 ~~(iii)~~(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
2 marijuana by the minor; ~~and~~

3 (D) AGREES THAT THE MINOR WILL USE ONLY MARIJUANA-INFUSED PRODUCTS AND WILL NOT SMOKE MARIJUANA;

4 ~~(iv)~~(C) ~~undergoes a name-based~~ SUBMITS FINGERPRINTS TO FACILITATE A FINGERPRINT AND background
5 check BY THE DEPARTMENT OF JUSTICE AND FEDERAL BUREAU OF INVESTIGATION. The parent or legal guardian shall
6 pay the costs of the background check AND MAY NOT OBTAIN A REGISTRY IDENTIFICATION CARD AS A
7 MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PARENT OR LEGAL GUARDIAN DOES NOT MEET THE REQUIREMENTS OF
8 [SECTION 5].

9 (D) PLEDGES, ON A FORM PRESCRIBED BY THE DEPARTMENT, NOT TO DIVERT TO ANY PERSON ANY MARIJUANA
10 CULTIVATED OR MANUFACTURED FOR THE MINOR'S USE IN A MARIJUANA-INFUSED PRODUCT.

11 (3) AN APPLICATION FOR A REGISTRY IDENTIFICATION CARD FOR A MINOR MUST BE ACCOMPANIED BY THE
12 WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS REQUIRED PURSUANT TO [SECTION 7] FROM A SECOND
13 PHYSICIAN IN ADDITION TO THE MINOR'S TREATING PHYSICIAN OR REFERRAL PHYSICIAN.

14 ~~(3)~~(4) A person may not be a registered cardholder if the person is in the custody of or under the
15 supervision of the department of corrections ~~or, OR~~ a youth court, ~~A DISTRICT COURT, OR A COURT OF LIMITED~~
16 ~~JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL~~
17 ~~SUPERVISION OR ENFORCEMENT PROGRAM.~~

18 ~~(4)~~(5) A registered cardholder who elects to obtain marijuana from a provider OR MARIJUANA-INFUSED
19 PRODUCTS PROVIDER may not cultivate or manufacture marijuana for the cardholder's use UNLESS THE REGISTERED
20 CARDHOLDER IS THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

21 ~~(5)~~(6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 9 10]
22 only:

23 (a) at a property that is owned by the cardholder; or

24 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

25 ~~(6)~~(7) No portion of the property used for cultivation and manufacture of marijuana for use by the
26 registered cardholder may be shared with or rented or leased to a provider ~~or to~~, A MARIJUANA-INFUSED PRODUCTS
27 PROVIDER, OR a registered cardholder unless the property is owned, rented, or leased by cardholders who are
28 related to each other by the second degree of kinship by blood or marriage.

30 NEW SECTION. Section 5. Providers PROVIDER TYPES -- requirements -- limitations -- ACTIVITIES.

(1) The department shall issue a registry identification card to OR RENEW A CARD FOR the person who is named as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder THAT INDICATES WHETHER THE PERSON WILL ACT AS THE CARDHOLDER'S PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(E) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES OR MANUFACTURES FOR A REGISTERED CARDHOLDER;

~~(e)(F)~~ a statement ~~indicating whether~~ ACKNOWLEDGING THAT the person will cultivate and manufacture marijuana for the registered cardholder at ~~a property owned, rented, or leased by the cardholder or by the person; and~~ ONLY ONE LOCATION AS PROVIDED IN SUBSECTION (7). THE LOCATION MUST BE IDENTIFIED BY STREET ADDRESS.

~~(f)(G)~~ a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person ~~as a provider~~ UNDER THIS SECTION if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court, ~~A DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM;~~

(C) HAS BEEN CONVICTED OF A VIOLATION UNDER [SECTION 16];

~~(e)(D)~~ has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; OR

(E) IS A REGISTERED CARDHOLDER WHO HAS DESIGNATED A PROVIDER OR MARIJUANA-INFUSED PRODUCTS

1 PROVIDER IN THE PERSON'S APPLICATION FOR A CARD ISSUED UNDER [SECTION 4].

2 (3) (A) (i) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may assist ~~only one registered~~
3 ~~cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders~~
4 ~~are related to the provider by the second degree of kinship by blood or marriage~~ A MAXIMUM OF THREE REGISTERED
5 CARDHOLDERS.

6 (ii) A PERSON WHO IS REGISTERED AS BOTH A PROVIDER AND A MARIJUANA-INFUSED PRODUCTS PROVIDER MAY
7 ASSIST NO MORE THAN THREE REGISTERED CARDHOLDERS.

8 (B) IF THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IS A REGISTERED CARDHOLDER, THE
9 PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ASSIST A MAXIMUM OF TWO REGISTERED CARDHOLDERS
10 OTHER THAN THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

11 (4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ACCEPT REIMBURSEMENT FROM A
12 CARDHOLDER ONLY FOR THE PROVIDER'S APPLICATION OR RENEWAL FEE FOR A REGISTRY IDENTIFICATION CARD ISSUED
13 UNDER THIS SECTION.

14 ~~(4)(5)~~ Marijuana for use pursuant to [sections 1 through 47 23] must be cultivated and manufactured in
15 Montana.

16 ~~(5)(6)~~ A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not:

17 (a) ~~accept compensation~~ ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, for any services or
18 products provided to a registered cardholder;

19 (B) BUY OR SELL MATURE MARIJUANA PLANTS, SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR
20 MARIJUANA-INFUSED PRODUCTS; OR

21 ~~(b)(C)~~ use marijuana UNLESS THE PERSON IS ALSO A REGISTERED CARDHOLDER; ~~or~~

22 ~~— (e)(D) be a registered cardholder AS BOTH A PROVIDER AND A MARIJUANA-INFUSED PRODUCTS PROVIDER.~~

23 ~~(6)(7)~~ (a) A ~~provider~~ PERSON REGISTERED UNDER THIS SECTION may cultivate and manufacture marijuana
24 for use by a registered cardholder only at ONE OF THE FOLLOWING LOCATIONS:

25 (i) a property that is owned by the provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

26 (ii) with written permission of the landlord, a property that is rented or leased by the provider OR
27 MARIJUANA-INFUSED PRODUCTS PROVIDER; or

28 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section
29 4].

30 (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or

rented or leased to another provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER or another registered cardholder.

NEW SECTION. SECTION 6. MARIJUANA-INFUSED PRODUCTS PROVIDER -- REQUIREMENTS -- ALLOWABLE

ACTIVITIES. (1) AN INDIVIDUAL REGISTERED AS A MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL:

(A) PREPARE MARIJUANA-INFUSED PRODUCTS AT A PREMISES REGISTERED WITH THE DEPARTMENT THAT IS USED FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS; AND

(B) USE EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS.

(2) A MARIJUANA-INFUSED PRODUCTS PROVIDER:

(A) MAY CULTIVATE MARIJUANA ONLY FOR THE PURPOSE OF MAKING MARIJUANA-INFUSED PRODUCTS; AND

(B) MAY NOT PROVIDE A CARDHOLDER WITH MARIJUANA IN A FORM THAT MAY BE USED FOR SMOKING UNLESS THE MARIJUANA-INFUSED PRODUCTS PROVIDER IS ALSO A REGISTERED PROVIDER AND IS PROVIDING THE MARIJUANA TO A REGISTERED CARDHOLDER WHO HAS SELECTED THE PERSON AS THE PERSON'S REGISTERED PROVIDER.

(3) ALL REGISTERED PREMISES ON WHICH MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED MUST MEET ANY APPLICABLE STANDARDS SET BY A LOCAL BOARD OF HEALTH FOR A FOOD SERVICE ESTABLISHMENT AS DEFINED IN 50-50-102.

(4) MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF TITLE 50, CHAPTER 31.

NEW SECTION. SECTION 7. ~~Physician statement~~ WRITTEN CERTIFICATION -- ACCOMPANYING

STATEMENTS. (1) The written certification provided by a physician must BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SIGNED AND DATED BY THE PHYSICIAN. THE WRITTEN CERTIFICATION MUST:

(A) INCLUDE THE PHYSICIAN'S NAME, LICENSE NUMBER, AND OFFICE ADDRESS AND TELEPHONE NUMBER ON FILE WITH THE BOARD OF MEDICAL EXAMINERS AND THE PHYSICIAN'S BUSINESS E-MAIL ADDRESS, IF ANY; AND

(B) THE NAME, DATE OF BIRTH, AND DEBILITATING MEDICAL CONDITION OF THE PERSON FOR WHOM THE PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION.

(2) A TREATING PHYSICIAN OR REFERRAL PHYSICIAN WHO IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT SHALL PROVIDE A STATEMENT INITIALED BY THE PHYSICIAN THAT MUST:

(a) confirm that the physician is;

(i) the person's treating physician and that the person has been under the physician's ONGOING medical

1 care ~~and supervision~~ AS PART OF A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON; OR

2 (II) THE PERSON'S REFERRAL PHYSICIAN;

3 (b) confirm that the person suffers from a debilitating medical condition;

4 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which
5 it is debilitating;

6 (D) CONFIRM THAT THE PHYSICIAN HAS ASSUMED PRIMARY RESPONSIBILITY FOR PROVIDING MANAGEMENT AND
7 ROUTINE CARE OF THE PERSON'S DEBILITATING MEDICAL CONDITION AFTER OBTAINING A COMPREHENSIVE MEDICAL
8 HISTORY AND CONDUCTING A PHYSICAL EXAMINATION THAT INCLUDED A PERSONAL REVIEW OF ANY MEDICAL RECORDS
9 MAINTAINED BY OTHER PHYSICIANS AND THAT MAY HAVE INCLUDED THE PERSON'S REACTION AND RESPONSE TO
10 CONVENTIONAL MEDICAL THERAPIES;

11 ~~(d)~~(E) describe the medications, procedures, and other medical options used to treat the condition;

12 ~~(e)~~(F) state that the medications, procedures, or other medical options have not been effective;

13 (G) CONFIRM THAT THE PHYSICIAN HAS REVIEWED ALL PRESCRIPTION AND NONPRESCRIPTION MEDICATIONS AND
14 SUPPLEMENTS USED BY THE PERSON AND HAS CONSIDERED THE POTENTIAL DRUG INTERACTION WITH MARIJUANA;

15 ~~(f)~~(H) state that the physician has a reasonable degree of certainty that the person's debilitating medical
16 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit
17 from the use of marijuana;

18 (I) CONFIRM THAT THE PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE USE OF MARIJUANA
19 TO THE PERSON;

20 ~~(g)~~(J) list restrictions on the person's activities due to the use of marijuana;

21 ~~(h)~~(K) specify the time period for which the use of marijuana would be appropriate, up to a maximum of
22 1 year; ~~and~~

23 ~~(i)~~(L) state that the physician will:

24 (i) continue to serve as the person's treating physician OR REFERRAL PHYSICIAN; and

25 (ii) ~~supervise~~ MONITOR the person's RESPONSE TO THE use of marijuana and evaluate the efficacy of the
26 treatment; AND

27 (M) CONTAIN AN ATTESTATION THAT THE INFORMATION PROVIDED IN THE WRITTEN CERTIFICATION AND
28 ACCOMPANYING STATEMENTS IS TRUE AND CORRECT.

29 (3) A PHYSICIAN WHO IS THE SECOND PHYSICIAN RECOMMENDING MARIJUANA FOR USE BY A MINOR SHALL
30 SUBMIT:

1 (A) A STATEMENT INITIALED BY THE PHYSICIAN THAT THE PHYSICIAN CONDUCTED A COMPREHENSIVE REVIEW OF
2 THE MINOR'S MEDICAL RECORDS AS MAINTAINED BY THE TREATING PHYSICIAN OR REFERRAL PHYSICIAN;

3 (B) A STATEMENT THAT IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE POTENTIAL BENEFITS OF THE USE OF
4 MARIJUANA WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE MINOR; AND

5 (C) AN ATTESTATION THAT THE INFORMATION PROVIDED IN THE WRITTEN CERTIFICATION AND ACCOMPANYING
6 STATEMENTS IS TRUE AND CORRECT.

7 ~~(2)~~(4) If the written certification states that marijuana should be used for less than 1 year, the department
8 shall issue a registry identification card that is valid for the period specified in the written certification.
9

10 **NEW SECTION. Section 8. Registry card to be carried and exhibited on demand -- photo**
11 **identification required.** A registered cardholder ~~or, provider,~~ OR MARIJUANA-INFUSED PRODUCTS PROVIDER shall
12 keep the ~~cardholder's or provider's~~ PERSON'S registry identification card in the person's immediate possession
13 at all times. The person shall display the registry identification card and a valid photo identification upon demand
14 of a law enforcement officer, justice of the peace, or city or municipal judge.
15

16 **NEW SECTION. Section 9. Health care facility procedures for patients with marijuana for use.** (1)
17 (A) Except for hospices AND RESIDENTIAL CARE FACILITIES that allow the use of marijuana as provided in [section
18 ~~40 11~~], a health care facility as defined in 50-5-101 shall take the following measures ~~in the order listed~~ when a
19 patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health
20 care facility:

21 ~~(a)~~(i) require the patient to remove the marijuana from the premises before the patient is admitted if the
22 patient is able to do so; OR

23 ~~(b)~~(ii) make a reasonable effort to contact the patient's provider, OR MARIJUANA-INFUSED PRODUCTS
24 PROVIDER, COURT-APPOINTED GUARDIAN, OR PERSON WITH A POWER OF ATTORNEY, if any; OR,

25 ~~(c)~~(B) IF A PATIENT IS UNABLE TO REMOVE THE MARIJUANA OR THE HEALTH CARE FACILITY IS UNABLE TO CONTACT
26 AN INDIVIDUAL AS PROVIDED IN SUBSECTION (1)(A), THE FACILITY SHALL contact the local law enforcement agency
27 having jurisdiction in the area where the facility is located.

28 (2) A provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER, COURT-APPOINTED GUARDIAN, OR PERSON WITH
29 A POWER OF ATTORNEY, IF ANY, contacted by a health care facility shall remove the marijuana and deliver it to the
30 patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. Section 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may possess ~~the amounts allowed under subsection (1)(a)~~ 4 MATURE PLANTS, 12 SEEDLINGS, AND 1 OUNCE OF USABLE MARIJUANA for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section ~~46~~ 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through ~~47~~ 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the ~~registered cardholder or provider~~ INDIVIDUAL cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through ~~47~~ 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through ~~47~~ 23].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not

1 a registered cardholder.

2 (6) ~~Possession~~ EXCEPT AS PROVIDED IN [SECTION 14], POSSESSION of or application for a registry
3 identification card does not alone constitute probable cause to search the individual or the property of the
4 individual possessing or applying for the registry identification card or otherwise subject the individual or property
5 of the individual possessing or applying for the card to inspection by any governmental agency, including a law
6 enforcement agency.

7 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
8 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal
9 charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an
10 arrest or the filing of a criminal charge.

11 (8) (A) A REGISTERED CARDHOLDER, A PROVIDER, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER IS PRESUMED
12 TO BE ENGAGED IN THE USE OF MARIJUANA AS ALLOWED BY [SECTIONS 1 THROUGH 23] IF THE PERSON:

13 (I) IS IN POSSESSION OF A VALID REGISTRY IDENTIFICATION CARD; AND

14 (II) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE AMOUNT PERMITTED UNDER
15 [SECTIONS 1 THROUGH 23].

16 (B) THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT THE POSSESSION OF MARIJUANA WAS NOT FOR THE
17 PURPOSE OF ALLEVIATING THE SYMPTOMS OR EFFECTS OF A REGISTERED CARDHOLDER'S DEBILITATING MEDICAL
18 CONDITION.

19
20 NEW SECTION. Section 11. Limitations of the act. (1) [Sections 1 through 47 ~~23~~] do not permit:

21 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
22 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

23 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

24 (i) in a health care facility as defined in 50-5-101;

25 (ii) in a school or a postsecondary school as defined in 20-5-402;

26 (iii) on or in any property owned by a school district or a postsecondary school;

27 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
28 used for school-related purposes;

29 (v) in a school bus or other form of public transportation;

30 (vi) ~~in~~ WHEN ORDERED BY ANY COURT OF COMPETENT JURISDICTION INTO a correctional facility, INCLUDING ALL

1 ~~FACILITIES DESCRIBED IN 53-1-203~~ OR PROGRAM;

2 (VII) IF A COURT HAS IMPOSED RESTRICTIONS ON THE CARDHOLDER'S USE PURSUANT TO 46-18-202;

3 ~~(vii)~~(VIII) at a public park, public beach, public recreation center, or youth center;

4 ~~(viii)~~(IX) in or on the property of any church, synagogue, or other place of worship;

5 ~~(ix)~~(X) in plain view of or in a place open to the general public; ~~or~~ OR

6 ~~(x)~~(XI) where exposure to the marijuana smoke significantly adversely affects the health, safety, or
7 welfare of children; ~~OR~~

8 ~~— (XI) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED~~
9 ~~BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT~~
10 ~~PROGRAM.~~

11 (2) A registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not cultivate
12 or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other
13 public area.

14 (3) A hospice OR RESIDENTIAL CARE FACILITY licensed under Title 50, chapter 5, may adopt a policy that
15 allows use of marijuana by a registered cardholder.

16 (4) Nothing in [sections 1 through 47 23] may be construed to require:

17 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
18 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
19 reimburse a person for costs associated with the use of marijuana by a ~~person with a debilitating medical~~
20 ~~condition~~ REGISTERED CARDHOLDER;

21 (b) an employer to accommodate the use of marijuana by a registered cardholder;

22 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
23 activities; or

24 (d) a landlord to allow a tenant who is a registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED
25 PRODUCTS PROVIDER to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

26 (5) Nothing in [sections 1 through 47 23] may be construed to:

27 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
28 a debilitating medical condition; or

29 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
30 discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 47 23] may be construed to allow a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER to use marijuana or to prevent criminal prosecution of a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a ~~registered cardholder or provider~~ PERSON WITH A VALID REGISTRY IDENTIFICATION CARD is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of ~~3-5~~ 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder ~~or~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

NEW SECTION. SECTION 12. PROHIBITIONS ON PHYSICIAN AFFILIATION WITH PROVIDERS AND MARIJUANA-INFUSED PRODUCTS PROVIDERS -- SANCTIONS. (1) (A) A PHYSICIAN WHO PROVIDES WRITTEN CERTIFICATIONS MAY NOT:

(i) ACCEPT OR SOLICIT ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, FROM A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(ii) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A PERSON WHO USES OR AGREES TO USE A PARTICULAR PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER; OR

(iii) EXAMINE A PATIENT FOR THE PURPOSES OF DIAGNOSING A DEBILITATING MEDICAL CONDITION AT A LOCATION WHERE MEDICAL MARIJUANA IS CULTIVATED OR MANUFACTURED OR WHERE MARIJUANA-INFUSED PRODUCTS ARE MADE.

(B) SUBSECTION (1)(A) DOES NOT PREVENT A PHYSICIAN FROM ACCEPTING A FEE FOR PROVIDING MEDICAL CARE TO A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PHYSICIAN CHARGES THE PERSON THE SAME FEE

1 THAT THE PHYSICIAN CHARGES OTHER PATIENTS FOR PROVIDING A SIMILAR LEVEL OF MEDICAL CARE.

2 (2) IF THE DEPARTMENT HAS CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED THIS SECTION, HAS VIOLATED
3 A PROVISION OF RULES ADOPTED PURSUANT TO THIS CHAPTER, OR HAS NOT MET THE STANDARD OF CARE REQUIRED
4 UNDER THIS CHAPTER, THE DEPARTMENT MAY REFER THE MATTER TO THE BOARD OF MEDICAL EXAMINERS PROVIDED FOR
5 IN 2-15-1731 FOR REVIEW PURSUANT TO 37-1-308.

6 (3) A VIOLATION OF THIS SECTION CONSTITUTES UNPROFESSIONAL CONDUCT UNDER 37-1-316. IF THE BOARD
7 OF MEDICAL EXAMINERS FINDS THAT A PHYSICIAN HAS VIOLATED THIS SECTION, THE BOARD SHALL RESTRICT THE
8 PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA. THE BOARD OF MEDICAL
9 EXAMINERS SHALL NOTIFY THE DEPARTMENT OF THE SANCTION.

10 (4) IF THE BOARD OF MEDICAL EXAMINERS BELIEVES A PHYSICIAN'S PRACTICES MAY HARM THE PUBLIC HEALTH,
11 SAFETY, OR WELFARE, THE BOARD MAY SUMMARILY RESTRICT A PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN
12 CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA.

13
14 **NEWSECTION. Section 13. Local government authority to regulate.** (1) To protect the public health,
15 safety, or welfare, a local government may by ordinance or resolution regulate a provider OR MARIJUANA-INFUSED
16 PRODUCTS PROVIDER that operates within the local government's jurisdictional area. The regulations may include
17 but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure
18 compliance with any public health, safety, and welfare requirements established by the department or the local
19 government.

20 (2) A LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE OR RESOLUTION PROHIBITING PROVIDERS AND
21 MARIJUANA-INFUSED PRODUCTS PROVIDERS FROM OPERATING AS STOREFRONT BUSINESSES.

22
23 **NEW SECTION. SECTION 14. INSPECTION PROCEDURES.** (1) THE DEPARTMENT AND STATE OR LOCAL LAW
24 ENFORCEMENT AGENCIES MAY CONDUCT ~~FREQUENT~~, UNANNOUNCED INSPECTIONS OF REGISTERED PREMISES.

25 (2) (A) EACH PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL KEEP A COMPLETE SET OF
26 RECORDS NECESSARY TO SHOW ALL TRANSACTIONS WITH REGISTERED CARDHOLDERS. THE RECORDS MUST BE OPEN FOR
27 INSPECTION BY THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES ~~AT ANY TIME~~ DURING NORMAL
28 BUSINESS HOURS.

29 (B) THE DEPARTMENT MAY REQUIRE A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER TO FURNISH
30 INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF [SECTIONS 1

1 THROUGH 23].

2 (3) (A) A REGISTERED PREMISES, INCLUDING ANY PLACES OF STORAGE, WHERE MARIJUANA IS CULTIVATED,
3 MANUFACTURED, OR STORED IS SUBJECT TO ENTRY BY THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT
4 AGENCIES FOR THE PURPOSE OF INSPECTION OR INVESTIGATION DURING NORMAL BUSINESS HOURS.

5 (B) IF ANY PART OF THE REGISTERED PREMISES CONSISTS OF A LOCKED AREA, THE PROVIDER OR
6 MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAKE THE AREA AVAILABLE FOR INSPECTION WITHOUT DELAY UPON
7 REQUEST OF THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

8 (4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAINTAIN RECORDS SHOWING THE NAMES
9 AND REGISTRY IDENTIFICATION NUMBERS OF REGISTERED CARDHOLDERS TO WHOM MATURE PLANTS, SEEDLINGS, USABLE
10 MARIJUANA, OR MARIJUANA-INFUSED PRODUCTS WERE TRANSFERRED AND THE QUANTITIES TRANSFERRED TO EACH
11 CARDHOLDER.

12
13 **NEW SECTION. Section 15. Unlawful conduct by cardholders -- penalties.** (1) The department shall
14 revoke and may not reissue the registry identification card of a person who:

15 (a) is convicted of a drug offense; ~~or~~

16 (b) allows another person to be in possession of the ~~cardholder's~~ PERSON'S:

17 (i) registry identification card; or

18 (ii) MATURE marijuana plants ~~or~~ SEEDLINGS, usable marijuana, OR MARIJUANA-INFUSED PRODUCTS; OR

19 (C) FAILS TO COOPERATE WITH THE DEPARTMENT CONCERNING AN INVESTIGATION OR INSPECTION IF THE PERSON
20 IS REGISTERED AND CULTIVATING OR MANUFACTURING MARIJUANA.

21 (2) A registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates
22 [sections 1 through ~~47~~ 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term
23 not to exceed 6 months, or both, unless otherwise provided in [sections 1 through ~~47~~ 23] or unless the violation
24 would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and
25 prosecuted pursuant to the provisions of Title 45.

26
27 **NEW SECTION. Section 16. Fraudulent representation -- penalties.** (1) In addition to any other
28 penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is
29 a registered cardholder ~~or a~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER is guilty of a ~~felony~~
30 MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for A TERM not ~~less than~~ TO EXCEED

1 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

2 (2) A physician who purposely and knowingly misrepresents any information required under [section 6
3 7] is guilty of a ~~felony MISDEMEANOR~~ punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for ~~not less than~~
4 A TERM NOT TO EXCEED 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~\$50,000~~ \$1,000, or both.

5 (3) A PERSON CONVICTED UNDER THIS SECTION MAY NOT BE REGISTERED AS A PROVIDER OR
6 MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER [SECTION 5].

7
8 **NEW SECTION. Section 17. Confidentiality of registry information -- penalty.** (1) A EXCEPT AS
9 PROVIDED IN 37-3-203, A person, including an employee or official of the department of public health and human
10 services, commits the offense of disclosure of confidential information related to registry information if the person
11 knowingly or purposely discloses confidential information in violation of [sections 1 through 47 23].

12 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
13 in the county jail for a term not to exceed 6 months, or both.

14
15 **NEW SECTION. Section 18. Law enforcement authority.** Nothing in this chapter may be construed
16 to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a ~~debilitating~~
17 ~~medical condition or the person's provider~~ REGISTRY IDENTIFICATION CARD.

18
19 **NEW SECTION. Section 19. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other
20 property seized by a law enforcement official from a person claiming the protections of [sections 1 through 47 23]
21 in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must
22 be returned to the person immediately upon a determination that the person is in compliance with the provisions
23 of [sections 1 through 47 23].

24 (2) A law enforcement agency in possession of MATURE marijuana plants OR SEEDLINGS seized as
25 evidence is not responsible for the care and maintenance of the plants OR SEEDLINGS.

26
27 **NEW SECTION. SECTION 20. ADVERTISING PROHIBITED. PERSONS WITH VALID REGISTRY IDENTIFICATION**
28 CARDS MAY NOT ADVERTISE MARIJUANA OR MARIJUANA-RELATED PRODUCTS IN ANY MEDIUM, INCLUDING ELECTRONIC
29 MEDIA.

1 **NEW SECTION. SECTION 21. HOTLINE.** (1) THE DEPARTMENT SHALL CREATE AND MAINTAIN A HOTLINE TO
2 RECEIVE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23].

3 **(2) THE DEPARTMENT MAY:**

4 **(A) INVESTIGATE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23]; OR**

5 **(B) REFER REPORTS OF SUSPECTED ABUSE TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN THE**
6 **AREA WHERE THE SUSPECTED ABUSE IS OCCURRING.**

7
8 **NEW SECTION. SECTION 22. LEGISLATIVE MONITORING.** (1) THE CHILDREN, FAMILIES, HEALTH, AND HUMAN
9 SERVICES INTERIM COMMITTEE SHALL PROVIDE OVERSIGHT OF THE DEPARTMENT'S ACTIVITIES RELATED TO REGISTERING
10 INDIVIDUALS PURSUANT TO [SECTIONS 1 THROUGH 23] AND OF ISSUES RELATED TO THE CULTIVATION, MANUFACTURE, AND
11 USE OF MARIJUANA PURSUANT TO [SECTIONS 1 THROUGH 23].

12 **(2) THE COMMITTEE SHALL IDENTIFY ISSUES LIKELY TO REQUIRE FUTURE LEGISLATIVE ATTENTION AND DEVELOP**
13 **LEGISLATION TO PRESENT TO THE NEXT REGULAR SESSION OF THE LEGISLATURE.**

14
15 **NEW SECTION. SECTION 23. Rulemaking authority -- fees.** (1) The department shall adopt rules
16 necessary for the implementation and administration of [sections 1 through 47 23]. The rules must include but
17 are not limited to:

18 (a) the manner in which the department will consider applications for registry identification cards for
19 providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS and for persons with debilitating medical conditions and
20 renewal of registry identification cards ~~for providers and registered cardholders~~;

21 (b) the acceptable forms of proof of Montana residency;

22 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
23 ~~[section 5]~~ [SECTIONS 4 AND 5]; and

24 (d) other rules necessary to implement the purposes of [sections 1 through 47 23].

25 (2) The department's rules must establish application and renewal fees that generate revenue sufficient
26 to offset all expenses of implementing and administering [sections 1 through 47 23].

27
28 **Section 24.** Section 37-1-316, MCA, is amended to read:

29 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
30 applicant governed by this part:

1 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
2 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
3 theft, whether or not an appeal is pending;

4 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
5 licensure or certification;

6 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in
7 securing a license or license renewal or in taking an examination required for licensure;

8 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee
9 knows or reasonably ought to know contains a false or misleading statement;

10 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of
11 the profession or occupation;

12 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
13 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
14 law, rule, or ordinance governing the licensee's profession or occupation;

15 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
16 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
17 on appeal, under judicial review, or has been satisfied;

18 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

19 (9) revealing confidential information obtained as the result of a professional relationship without the prior
20 consent of the recipient of services, except as authorized or required by law;

21 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
22 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

23 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
24 the profession or occupation with reasonable skill and safety;

25 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
26 disease involving serious risk to public health or without taking adequate precautions, including but not limited
27 to informed consent, protective gear, or cessation of practice;

28 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
29 regarding the accounting and distribution of a client's property or funds;

30 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by

1 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
2 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
3 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
4 filed, prosecuted, or completed;

5 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
6 organization to practice or offer to practice by use of the licensee's license;

7 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
8 appeal, against the licensee or of an action against the licensee by a:

9 (a) peer review committee;

10 (b) professional association; or

11 (c) local, state, federal, territorial, provincial, or Indian tribal government;

12 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
13 implementing 28-10-103(3)(a);

14 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
15 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
16 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
17 to prove conduct that does not meet generally accepted standards;

18 (19) the sole use of any electronic means, including teleconferencing, to obtain the information required
19 for the written certification that is AND ACCOMPANYING STATEMENTS used to apply for a registry identification card
20 pursuant to [sections 1 through 47 23]."

21
22 **Section 25.** Section 37-3-343, MCA, is amended to read:

23 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
24 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
25 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

26 (2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect
27 to the specialty in which the physician is board-certified or meets the current requirements to take the examination
28 to become board-certified and on which the physician bases the physician's application for a telemedicine license
29 pursuant to 37-3-345(2).

30 (3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A

1 telemedicine license does not authorize the physician to engage in the practice of medicine while physically
2 present within the state.

3 (4) A telemedicine license may not be used by a physician as a means to obtain the information required
4 for the written certification ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card
5 pursuant to [sections 1 through 47 23].

6 ~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
7 to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions
8 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
9 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

10
11 **Section 26.** Section 37-3-347, MCA, is amended to read:

12 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
13 deny an application for a telemedicine license if the applicant:

14 (a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341
15 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

16 (b) plans to use telemedicine as a means to obtain the information required for the written certification
17 ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card pursuant to [sections 1
18 through 47 23].

19 ~~(b)~~(c) fails to pay a required fee;

20 ~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

21 ~~(d)~~(e) has committed unprofessional conduct.

22 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
23 apply for a physician's license in order to practice medicine in Montana."

24
25 **Section 27.** Section 41-5-216, MCA, is amended to read:

26 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
27 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
28 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
29 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
30 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the

1 extended jurisdiction.

2 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
3 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
4 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
5 court.

6 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
7 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

8 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
9 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
10 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
11 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
12 offender pursuant to Title 46, chapter 23, part 5.

13 (5) After formal youth court records, law enforcement records, and department records are sealed, they
14 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
15 a new offense, to:

16 (a) those persons and agencies listed in 41-5-215(2); and

17 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
18 age of majority.

19 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
20 under subsection (1), the electronic records of the management information system maintained by the department
21 of public health and human services and by the department relating to the youth whose records are being sealed
22 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

23 (b) The department of public health and human services and the department shall disassociate the
24 offense and disposition information from the name of the youth in the respective management information system.
25 The offense and disposition information must be maintained separately and may be used only:

26 (i) for research and program evaluation authorized by the department of public health and human
27 services or by the department and subject to any applicable laws; and

28 (ii) as provided in Title 5, chapter 13.

29 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
30 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency

1 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
2 only pursuant to subsection (5).

3 (b) The informal youth court records may be maintained and inspected only by youth court personnel
4 upon a new offense prior to the youth's 18th birthday.

5 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
6 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
7 in hard-copy form must be destroyed and any electronic records in the youth court management information
8 system must disassociate the offense and disposition information from the name of the youth and may be used
9 only for the following purposes:

10 (i) for research and program evaluation authorized by the office of the court administrator and subject
11 to any applicable laws; and

12 (ii) as provided in Title 5, chapter 13.

13 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
14 court records within the juvenile probation management information system. Electronic records of the youth court
15 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
16 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
17 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
18 as provided in subsection (2) of this section.

19 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
20 court records within the department's youth management information system. Electronic records of the
21 department's youth management information system may not be shared except as provided in subsection (5).
22 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
23 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
24 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

25 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
26 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
27 of a youth within the facility.

28 (11) This section does not prohibit access to formal or informal youth court records, including electronic
29 records, for purposes of conducting evaluations as required by 41-5-2003.

30 (12) This section does not prohibit the office of court administrator, upon written request from the

1 department of public health and human services, from confirming whether a person applying for a registry
2 identification card pursuant to [section 4 or 5] is currently under youth court supervision."
3

4 **Section 28.** Section 45-9-203, MCA, is amended to read:

5 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
6 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
7 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
8 to the department for issuance of a probationary license under 61-2-302.

9 (2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an
10 offense under this chapter, the court shall:

11 (a) at the time of sentencing, require the person to surrender the registry identification card; and

12 (b) notify the department of public health and human services of the conviction in order for the
13 department to carry out its duties under [section 42 15]."
14

15 **SECTION 29. SECTION 46-18-202, MCA, IS AMENDED TO READ:**

16 **"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
17 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
18 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

19 (a) prohibition of the offender's holding public office;

20 (b) prohibition of the offender's owning or carrying a dangerous weapon;

21 (c) restrictions on the offender's freedom of association;

22 (d) restrictions on the offender's freedom of movement;

23 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title
24 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

25 (f) a requirement that the offender surrender any registry identification card issued under [section 3];

26 ~~(f)~~(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the
27 victim and society.

28 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
29 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
30 and participation in the supervised release program while serving that term. If the restriction is to be imposed,

1 the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is
2 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
3 judgment must contain a statement of the reasons for the restriction.

4 (3) If a sentencing judge requires an offender to surrender a registry identification card issued under
5 [section 3], the court shall return the card to the department of public health and human services and provide the
6 department with information on the offender's sentence. The department shall revoke the card for the duration
7 of the sentence and shall return the card if the offender successfully completes the terms of the sentence before
8 the expiration date listed on the card."

9
10 **SECTION 30. SECTION 50-46-201, MCA, IS AMENDED TO READ:**

11 **"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of**
12 **medical use.** (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the
13 effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right
14 or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the
15 department of labor and industry, if:

16 (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers,
17 or transports marijuana not in excess of the amounts allowed in subsection (2); or

18 (b) the qualifying patient uses marijuana for medical use.

19 (2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana
20 plants and 1 ounce of usable marijuana each.

21 (3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the
22 qualifying patient or caregiver:

23 (i) is in possession of a registry identification card; and

24 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under
25 subsection (2).

26 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
27 purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

28 (4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
29 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
30 department of labor and industry, for providing written certification for the medical use of marijuana to qualifying

1 patients.

2 (5) An interest in or right to property that is possessed, owned, or used in connection with the medical
3 use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for
4 the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

5 (6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as
6 provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity
7 of the medical use of marijuana as permitted under this chapter.

8 (7) Possession of or application for a registry identification card does not alone constitute probable cause
9 to search the person or property of the person possessing or applying for the registry identification card or
10 otherwise subject the person or property of the person possessing or applying for the card to inspection by any
11 governmental agency, including a law enforcement agency.

12 (8) A registry identification card or its equivalent issued by another state government to permit the
13 medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical
14 use of marijuana has the same force and effect as a registry identification card issued by the department."

15

16 **SECTION 31. SECTION 50-46-202, MCA, IS AMENDED TO READ:**

17 **"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.**

18 **(1) The department shall maintain a confidential list of the persons to whom the department has issued registry**
19 **identification cards. Individual names and other identifying information on the list must be confidential and are not**
20 **subject to disclosure except to:**

21 **(a) authorized employees of the department as necessary to perform official duties of the department;**
22 **or**

23 **(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful**
24 **possessor of a registry identification card.**

25 ~~(1)~~(2) A person, including an employee or official of the department or other state or local government
26 agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the
27 person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

28 ~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana
29 shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

30

1 **Section 32.** Section 61-11-101, MCA, is amended to read:

2 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
3 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
4 the suspension or revocation of the driver's license or commercial driver's license of the person by the
5 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
6 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
7 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
8 indicate that fact in its report to the department.

9 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
10 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
11 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
12 the conviction becomes final. The court may recommend that the department issue a restricted probationary
13 license on the condition that the individual comply with the requirement that the person attend and complete a
14 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

15 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
16 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
17 upon which it is based to the department within 5 days on forms furnished by the department.

18 (4) A conviction becomes final for the purposes of this part upon the later of:

19 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

20 (b) forfeiture of bail that is not vacated; or

21 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
22 execution of a sentence.

23 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
24 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
25 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
26 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
27 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
28 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
29 person who holds any other type of driver's license.

30 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to

1 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
2 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
3 subsection (1).

4 (6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is
5 convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the
6 initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court
7 in which the conviction occurs shall require the person to surrender the registry identification card.

8 (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card
9 and a copy of the conviction to the department of public health and human services."

10
11 NEW SECTION. SECTION 33. EMERGENCY RULEMAKING. THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
12 SERVICES SHALL ADOPT EMERGENCY RULES AS PROVIDED IN 2-4-303 TO ALLOW FOR ISSUANCE OF REGISTRY
13 IDENTIFICATION CARDS IN ACCORDANCE WITH THE PROVISIONS OF [SECTIONS 1 THROUGH 23] BEGINNING JUNE 1, 2011.

14
15 NEW SECTION. Section 34. Repealer. The following sections of the Montana Code Annotated are
16 repealed:

17 50-46-101. Short title.
18 50-46-102. Definitions.
19 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
20 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
21 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
22 50-46-205. Limitations of Medical Marijuana Act.
23 50-46-206. Affirmative defense.
24 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
25 50-46-210. Rulemaking -- fees.

26
27 NEW SECTION. Section 35. Transition. (1) Registry identification cards issued to persons with
28 debilitating medical conditions prior to [the effective date of this ~~act~~ SECTION] are valid until the expiration date
29 listed on the card.

30 (2) (A) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY ISSUE REGISTRY IDENTIFICATION CARDS

1 TO PERSONS WITH DEBILITATING MEDICAL CONDITIONS AND TO THE PERSONS NAMED AS PROVIDERS OR
2 MARIJUANA-INFUSED PRODUCTS PROVIDERS BEGINNING JUNE 1, 2011, UNDER EMERGENCY RULES ADOPTED PURSUANT
3 TO [SECTION 33].

4 (B) UNTIL OCTOBER 1, 2011, THE DEPARTMENT MAY ISSUE CARDS TO PERSONS APPLYING AS PROVIDERS OR
5 MARIJUANA-INFUSED PRODUCTS PROVIDERS BEFORE THE DEPARTMENT HAS OBTAINED THE RESULTS OF THE FINGERPRINT
6 AND BACKGROUND CHECK REQUIRED UNDER [SECTIONS 4 AND 5].

7 (C) A PERSON WHO OBTAINS A REGISTRY IDENTIFICATION CARD AS A PROVIDER OR MARIJUANA-INFUSED
8 PRODUCTS PROVIDER BEFORE OCTOBER 1, 2011, SHALL SUBMIT FINGERPRINTS AS REQUIRED BY [SECTIONS 4 AND 5] NO
9 LATER THAN OCTOBER 1, 2011.

10 (3) (A) THE DEPARTMENT SHALL REVOKE THE REGISTRY IDENTIFICATION CARD ISSUED TO A PROVIDER OR
11 MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER SUBSECTION (2) IF:

12 (I) THE PERSON FAILS TO SUBMIT FINGERPRINTS BY OCTOBER 1, 2011; OR

13 (II) THE RESULTS OF A FINGERPRINT AND BACKGROUND CHECK CONDUCTED AFTER ISSUANCE OF THE CARD
14 SHOWS THAT THE PERSON IS INELIGIBLE FOR THE CARD.

15 (B) THE DEPARTMENT SHALL NOTIFY THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER AND THE
16 REGISTERED CARDHOLDER WHO NAMED THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER THAT THE PERSON
17 MAY NO LONGER ASSIST THE REGISTERED CARDHOLDER WITH THE USE OF MARIJUANA TO ALLEVIATE THE SYMPTOMS OF
18 THE CARDHOLDER'S DEBILITATING MEDICAL CONDITION.

19 (2)(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before
20 July 1, 2011, [THE EFFECTIVE DATE OF THIS SECTION] may not be in possession of MATURE marijuana plants,
21 seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, IF THE PERSON HAS
22 NOT OBTAINED A REGISTRY IDENTIFICATION CARD PURSUANT TO THE PROVISIONS OF [SECTIONS 1 THROUGH 23] AS
23 PROVIDED FOR IN SUBSECTION (2). Before July 1, 2011, the A caregiver WHO HAS NOT OBTAINED A REGISTRY
24 IDENTIFICATION CARD PURSUANT TO [SECTIONS 1 THROUGH 23] shall take the items ANY MATURE MARIJUANA PLANTS,
25 SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR MARIJUANA-RELATED PRODUCTS STILL IN THE CAREGIVER'S
26 POSSESSION to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement
27 agency shall destroy the items.

28
29 NEW SECTION. Section 36. Codification instruction. [Sections 1 through 47 23] are intended to be
30 codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections

1 1 through 47 23].

2

3 COORDINATION SECTION. Section 37. Coordination instruction. ~~(1) If both House Bill No. 161 and~~
4 ~~[this act] are passed and approved, then [this act] is void.~~

5 ~~———(2) If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101,~~
6 ~~50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill~~
7 ~~No. 175 is void.~~

8

9 NEW SECTION. Section 38. Instructions to code commissioner. (1) Wherever a reference to
10 "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code
11 commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

12 (2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the
13 reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

14 (3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the
15 reference must be replaced with a reference to [section 7 11 of Senate Bill No. 423].

16

17 NEW SECTION. Section 39. Severability. If a part of [this act] is invalid, all valid parts that are
18 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
19 the part remains in effect in all valid applications that are severable from the invalid applications.

20

21 NEW SECTION. Section 40. Effective date DATES. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION
22 (2), [THIS ACT] is effective July 1, 2011.

23 (2) [SECTIONS 20, 30, 31, 33, THE REPEAL OF 50-46-103 PROVIDED FOR IN SECTION 34, AND SECTIONS 35 AND
24 38], AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.

25

- END -



AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title -- purpose. (1) [Sections 1 through 23] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 23] is to:

- (a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;
- (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 23] by persons who obtain registry identification cards;
- (c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;
- (d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and
- (e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

Section 2. Definitions. As used in [sections 1 through 23], the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction.

(2) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements

of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9) "Paraphernalia" has the meaning provided in 45-10-101.

(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [sections 1 through 23].

(b) The term does not include the cardholder's treating physician or referral physician.

(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(12) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

(14) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder, provider, or marijuana-infused products provider.

(15) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 23] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(17) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(18) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant and necessary physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician.

(19) "Treating physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) has a bona fide professional relationship with the person applying to be a registered cardholder.

(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(21) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of [section 7] and is provided in a manner that meets the standard of care.

Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

- (i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 23]; and
- (ii) are named as providers or marijuana-infused products providers by persons who obtain registry

identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 23].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider or marijuana-infused products provider.

(3) Registry identification cards issued pursuant to [sections 1 through 23] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall review the information contained in an application or renewal submitted pursuant to [sections 1 through 23] and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 5 days of approving an application or renewal.

(5) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time;

or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) A provider's or marijuana-infused products provider's registry identification card expires at the time the department issues a card to a new provider or new marijuana-infused products providers named by a

registered cardholder.

(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products providers or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(9) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 17].

(10) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing

written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications.

Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations.

(1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;
- (g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;
- (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
- (j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to [section 7].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

- (a) provides proof of legal guardianship and responsibility for health care decisions if the person is

submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-infused products provider;

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 10] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered

cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

Section 5. Provider types -- requirements -- limitations -- activities. (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

- (a) the person's name, date of birth, and street address on a form prescribed by the department;
- (b) proof that the person is a Montana resident;
- (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;
- (d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;
- (e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;
- (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.
- (g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person under this section if the person:

- (a) has a felony conviction or a conviction for a drug offense;
- (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- (c) has been convicted of a violation under [section 16];
- (d) has failed to:
 - (i) pay any taxes, interest, penalties, or judgments due to a government agency;
 - (ii) stay out of default on a government-issued student loan;
 - (iii) pay child support; or
- (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4].

(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.

(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to [sections 1 through 23] must be cultivated and manufactured in Montana.

(6) A provider or marijuana-infused products provider may not:

(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder.

(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

Section 6. Marijuana-infused products provider -- requirements -- allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

Section 7. Written certification -- accompanying statements. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the person's treating physician and that the person has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;

(j) list restrictions on the person's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's treating physician or referral physician; and

(ii) monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

Section 8. Registry card to be carried and exhibited on demand -- photo identification required.

A registered cardholder, provider, or marijuana-infused products provider shall keep the person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

Section 9. Health care facility procedures for patients with marijuana for use. (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in [section 11], a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

Section 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 23].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 14], possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or

applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

- (i) is in possession of a valid registry identification card; and
- (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

Section 11. Limitations of the act. (1) [Sections 1 through 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

- (i) in a health care facility as defined in 50-5-101;
- (ii) in a school or a postsecondary school as defined in 20-5-402;
- (iii) on or in any property owned by a school district or a postsecondary school;
- (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
- (v) in a school bus or other form of public transportation;
- (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
- (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- (viii) at a public park, public beach, public recreation center, or youth center;
- (ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 23] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 23] may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

- (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or
- (ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

- (i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;
- (ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or
- (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department

of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana.

Section 13. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

Section 15. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

- (a) is convicted of a drug offense;
- (b) allows another person to be in possession of the person's:
 - (i) registry identification card; or
 - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates [sections 1 through 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 23] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

Section 16. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 7] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5].

Section 17. Confidentiality of registry information -- penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 23].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 18. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a registry identification card.

Section 19. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 23] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 23].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

Section 20. Advertising prohibited. Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

Section 21. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

Section 22. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

Section 23. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 23]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and marijuana-infused products providers and for persons with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [sections 4 and 5];

(d) other rules necessary to implement the purposes of [sections 1 through 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 23].

Section 24. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23]."

Section 25. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 26. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 27. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements

of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used

only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

Section 28. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply

to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 15]."

Section 29. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under [section 3];

(f)(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration

of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as

provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

(1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department;

or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 32. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the

department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

Section 33. Emergency rulemaking. The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011.

Section 34. Repealer. The following sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees.

Section 35. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this section] are valid until the expiration date listed on the card.

(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and

background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition.

(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before [the effective date of this section] may not be in possession of mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2). Before July 1, 2011, a caregiver who has not obtained a registry identification card pursuant to [sections 1 through 23] shall take any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

Section 36. Codification instruction. [Sections 1 through 23] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 23].

Section 37. Coordination instruction. If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void.

Section 38. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 11 of Senate Bill No. 423].

Section 39. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 40. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2011.

(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0423, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES.

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SENATE BILL NO. 423
 INTRODUCED BY J. ESSMANN
 BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title -- purpose. (1) [Sections 1 through 23] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 23] is to:

- (a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;
- (b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 23] by persons who obtain registry identification cards;
- (c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;
- (d) establish reporting requirements for production of marijuana and marijuana-infused products and

inspection requirements for premises; and

(e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

Section 2. Definitions. As used in [sections 1 through 23], the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction.

(2) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9) "Paraphernalia" has the meaning provided in 45-10-101.

(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [sections 1 through 23].

(b) The term does not include the cardholder's treating physician or referral physician.

(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(12) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

(14) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder, provider, or marijuana-infused products provider.

(15) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 23] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(17) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(18) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating

physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant and necessary physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician.

(19) "Treating physician" means a person who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) has a bona fide professional relationship with the person applying to be a registered cardholder.

(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(21) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of [section 7] and is provided in a manner that meets the standard of care.

Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

- (i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 23]; and
- (ii) are named as providers or marijuana-infused products providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 23].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5]

before issuing a registry identification card for a person named as a provider or marijuana-infused products provider.

(3) Registry identification cards issued pursuant to [sections 1 through 23] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall review the information contained in an application or renewal submitted pursuant to [sections 1 through 23] and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 5 days of approving an application or renewal.

(5) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) A provider's or marijuana-infused products provider's registry identification card expires at the time the department issues a card to a new provider or new marijuana-infused products providers named by a registered cardholder.

(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products providers or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department;

and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(9) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 17].

(10) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications.

Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1)

Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the person's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;

(f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;

(g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;

(h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;

(i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and

(j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to [section 7].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-infused products provider;

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or

manufactured for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 10] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

Section 5. Provider types -- requirements -- limitations -- activities. (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;

(f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.

(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person under this section if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under [section 16];

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4].

(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.

(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to [sections 1 through 23] must be cultivated and manufactured in Montana.

(6) A provider or marijuana-infused products provider may not:

(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder.

(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-

infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

Section 6. Marijuana-infused products provider -- requirements -- allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

Section 7. Written certification -- accompanying statements. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the person's treating physician and that the person has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;

(j) list restrictions on the person's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's treating physician or referral physician; and

(ii) monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall

issue a registry identification card that is valid for the period specified in the written certification.

Section 8. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder, provider, or marijuana-infused products provider shall keep the person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

Section 9. Health care facility procedures for patients with marijuana for use. (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in [section 11], a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

Section 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 23].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 14], possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

Section 11. Limitations of the act. (1) [Sections 1 through 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

(viii) at a public park, public beach, public recreation center, or youth center;

(ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 23] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 23] may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana.

Section 13. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

Section 15. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense;

(b) allows another person to be in possession of the person's:

(i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates [sections 1 through 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 23] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

Section 16. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 7] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not

to exceed \$1,000, or both.

(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5].

Section 17. Confidentiality of registry information -- penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 23].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 18. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a registry identification card.

Section 19. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 23] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 23].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

Section 20. Advertising prohibited. Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

Section 21. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

Section 22. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

Section 23. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 23]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and marijuana-infused products providers and for persons with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [sections 4 and 5];

(d) other rules necessary to implement the purposes of [sections 1 through 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 23].

Section 24. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23]."

Section 25. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 26. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23];

~~(b)~~(c) fails to pay a required fee;

~~(e)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 27. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

Section 28. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 15]."

Section 29. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
- (f) a requirement that the offender surrender any registry identification card issued under [section 3];
- ~~(f)~~(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

- (a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or
- (b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1)

The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government

agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 32. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a

commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

Section 33. Emergency rulemaking. The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011.

Section 34. Repealer. The following sections of the Montana Code Annotated are repealed:

- 50-46-101. Short title.
- 50-46-102. Definitions.
- 50-46-103. Procedures -- minors -- confidentiality -- report to legislature.
- 50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana -- penalty.
- 50-46-210. Rulemaking -- fees.

Section 35. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this section] are valid until the expiration date listed on the card.

(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products

providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition.

(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before [the effective date of this section] may not be in possession of mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2). Before July 1, 2011, a caregiver who has not obtained a registry identification card pursuant to [sections 1 through 23] shall take any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

Section 36. Codification instruction. [Sections 1 through 23] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 23].

Section 37. Coordination instruction. If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void.

Section 38. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana"

or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 11 of Senate Bill No. 423].

Section 39. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 40. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2011.

(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval.

- END -

Latest Version of SB 423 (SB0423.ENR)

Processed for the Web on May 2, 2011 (1:58pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

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